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New York

New York State. Statutes.

LAW'S

RELATING TO

VILLAGES

INCLUDING

STATUTES RELATING TO SEWERS, FIRE DEPARTMENTS, PUBLIC HEALTH, TAXES, VILLAGE WATER WORKS, GAS AND ELECTRIC LIGHTS, CEMETERIES, PARKS, LIBRARIES, ETC.

TO

JANUARY 1, 1895.

With Forms and References to Adjudicated Cases.

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VILLAGE LAWS.

CHAPTER I.

INCORPORATION OF VILLAGES.

1. VILLAGE.—The term village means an incorporated village. L. 1892, ch. 677, § 22.

2. MUNICIPAL CORPORATIONS.—The term "municipal corporation" as used in ch. 685, Laws 1892 "includes only a county, town, city and village, the term "governing board" includes the board of supervisors of a county, the common council of a city and the board of trustees of a village. Laws 1892, ch. 685, § 1.

3. INCORPORATION OF VILLAGE.—Any part of any town or towns, not in any incorporated village, containing a resident population of not less than three hundred persons, and if it shall include in its boundaries a territory of more than one square mile in extent, containing a resident population of not less than three hundred persons in each, and every additional square mile of territory included within such boundaries, may be incorporated as a village under the provisions of this act, by complying therewith, provided in case of any or part of any town or towns not containing three hundred resident population, but including in its boundaries a territory not less than one-half a square mile in extent, and a park of not less than forty acres used for a summer resort owned by an association incorporated by the State, upon filing in the county clerk's office of each county a map, as provided in section two of this title, and a petition signed by every property owner, liable to taxation, and every voter in such territory properly acknowledged before some officer authorized to administer oaths, in favor of such incorporation, shall thereafter be incorporated as a village under this act by the name designated in such petition, and in such case and in no other, may proceed to elect village officers at once as provided in section eighteen of this title, and the first three names appearing in such petition shall constitute the first board of inspectors. L. 1870, ch. 291,

T. 1. § 1, as amd., L. 1871, ch. 688, 870, and L. 1873, ch. 92, and L. 1891, ch. 116.

30 Hun, 548, 644; 32 id. 508; 35 id. 329; 48 id. 365; 35 id. 329; 44 id. 581; 98 N. Y. 501; 100 id. 92; 6 N. Y. St. R. 119; 25 W. D. 401.

4. CHARTER NOT INVALID BECAUSE NOT INCLUDING ONE SQUARE MILE.—The charter of no village heretofore incorporated shall be declared invalid because of a failure to include within the boundaries of said village a mile square of land; and all the municipal acts of the trustees or of other officers of such village shall be deemed to be valid and binding, and of the same force and effect as if such village corporation had originally included one mile square of land within its boundaries. L 1884, ch. 423, § 1.

See, also, L. 1879, ch. 337, and L. 1880, ch. 64.

NOTE.—The following five sections are not to apply where an entire town is to be incorporated. (L. 1871, ch. 688, § 2.)

5. DESCRIPTION OF TERRITORY TO BE EMBRACED IN VILLAGE.—The persons desiring such village incorporation shall cause an accurate survey and map and verbal description by metes and bounds, of the territory intended to be embraced within such village, to be made by a practical surveyor, showing the quantity of land in such territory, all to be verified by the affidavit of the surveyor thereon or annexed thereto. L. 1870, ch. 291, T. 1, § 2.

6. SAME: CENSUS OF POPULATION. Such persons shall also cause an accurate census to be taken of the resident population of such territory, as it may be, on some day, not more than twelve weeks previous to the time of the election upon the question of incorporation, as specified in the notice required by section seven of title one of this act, which census shall exhibit the name of every head of a family, and the number of such family, residing in such territory at the time of taking the census. Such census shall be verified by the affidavit of the person taking the same written thereon or annexed thereto. Id., § 3.

7. COPY OF DESCRIPTION TO BE MADE, ETC.—A correct copy of such verbal description of such boundaries shall be made and verified by the affidavit of the party making the same, annexed to such copy or written thereon, to be safely kept by some one of the parties causing such survey to be made. Id., § 4.

8. DESCRIPTION, ETC., TO BE OPEN FOR EXAMINATION.—Such survey, map, verbal description of boundaries and census, completed and verified as aforesaid, shall be left at the residence or place of business, within such territory, of some person residing therein, and shall be subject to examination at all reasonable hours by persons residing in such territory, for the

period of at least five weeks prior to the time of the election upon the question of incorporation, as fixed or to be fixed in the notice required by section seven of title one of this act. Id., § 5.

9. POSTING NOTICE AS TO SAME.— Within three days after such survey, maps and verbal description of boundaries and census shall be left for examination, as provided in section five of title one of this act, written or printed notices, signed by some one or more of the persons causing the making of such survey and taking such census, shall be posted in twenty public places in such territory, stating the place where such survey, map, description of boundaries and census are left for examination. Id., § 6.

10. ELECTION TO DECIDE AS TO INCORPORATING.— After the compliance with the preceding provisions in case of the proposed incorporation of any part of a town or towns, or after a vote in favor of such incorporation of the whole town at a regular or special town meeting of the voters thereof, in case of the proposed incorporation of the whole of such town as a village, a notice shall be prepared, stating that between the hours of ten in the forenoon and three in the afternoon on a specified day in said notice at some public place within the bounds of the proposed village, or where the proposed village is of parts of two or more towns, at some public places within the bounds of the parts of such towns as are within the bounds of such proposed village, designating such place or places such day to be at least five weeks from the time of leaving the survey, map, description of boundaries and census for examination, as hereinbefore provided or in cases of the proposed incorporation of a whole town, not less than six weeks from the time of posting the notice hereinafter provided, an election will be held to determine whether the proposed territory shall be incorporated as a village. Such notice shall also state the proposed name of said village, set out the verbal description of its bounds, give the amount proposed to be expended the first year of the incorporation for ordinary expenditures, as defined in this act and may also state the day upon which the annual election of elective officers of the corporation after the first election shall be held in each year, and shall be signed by at least twenty of the electors resident within the bounds of said proposed village, who shall be liable to be assessed for the ordinary and extraordinary expenditures of said village. If the territorial limits of such village shall comprise parts of two or more towns then there shall be at least ten electors from each of said towns who shall reside in the part of of the town or towns to be taken for such village. Such notice so signed shall be publishd in a newspaper, if there shall be one within the proposed bounds of said village, and copies of the same shall be posted in ten public places within said bounds, at least

thirty days before the day of election specified in said notice. Id., § 7, as amd., L. 1871, ch. 688, § 3, and L. 1888, ch. 172, § 1 and L. 1892, ch. 194.

11. INSPECTORS.—At the election provided for in such notice, the supervisor and town clerk of the town, or supervisors and town clerks of the towns, part or parts of which are taken for such village, shall constitute the board of inspectors for such election, preside at such election, and all the laws applicable to the election of town officers shall apply to such election and to all proceedings thereat, so far as the same shall be applicable and are consistent with the provisions of this act. Due notice of the time of such election shall be given to the persons herein designated as inspectors by some one of the persons signing the notice required by section seven of title one of this act. Id., § 8, as amd., L. 1892, ch. 194.

12. SAME: FORM OF BALLOT.—Every elector residing in such territory, and qualified to vote for town officers in the town in which such territory or some part thereof shall lie, may vote at such meeting by a ballot having thereon the word "yes," or the word "no." Id., § 9.

NOTE.—This was not repealed by L. 1890, ch. 263, 49 St. Rep. 288.

13. FILING AND RECORDING CERTIFICATES OF RESULT.—Within three days after such election the said board or boards of inspectors shall make out a certificate or certificates of the holding of the same, and of the canvass of the ballots thereat, showing the whole number of such ballots, the number with the word "yes" thereon and with the word "no" thereon with a copy of the notice of the holding of such election, and an affidavit of posting or publishing the same as hereinbefore provided. Such certificate shall be signed by said inspectors or a majority of them, and its truth verified by their affidavit annexed thereto, and shall, within ten days after such election be filed and recorded in the county clerk's office of the county within which such territory shall be, or in case such territory shall be located in two or more counties, then such certificate shall be filed with the county clerk of each of such counties. Id., § 10, as amd., 1892, ch. 194.

14. ELECTOR MAY APPEAL; PROCEEDINGS THEREON.—Within ten days after such filing any elector qualified to vote at such election may appeal to the county judge of the county in which such territory shall be located, or in case such territory shall be located in two or more counties, then to the county judge of either of said counties, by petition, specifying the irregularities in and objections to such election. Such judge, on proof by affidavit that such petition or notice of it has been served on the

electors signing the notice for holding the election, or a majority of them, and that the person appealing has deposited with the county clerk of the county in which such territory is located, the sum of one hundred dollars to meet the expenses of the appeal; shall appoint a day for hearing the same, not more than ten days from the day of bringing the appeal; and, on such day, on proof by affidavit that the electors signing the election notice, or a majority of them, were notified, in writing, five days before such hearing, of such hearing, shall proceed to hear the same, such judge shall have power, by subpoena, to compel the attendance of witnesses before him on such day, or on adjourned days. His decision as to the legality or illegality of such election shall be rendered within thirty days from the day of presenting the petition of appeal to him. If such decision be adverse to the prayer of such petition, he shall, within ten days from rendering such decision, by order signed by him, direct such portions as he may deem just of the one hundred dollars deposited with the county clerk, to be paid by such clerk to the persons in such order named, and the balance to the person or persons who deposited the same. If no such allowance is made by the county judge within the ten days above specified, then he shall direct, by order, the county clerk to return such money to the person who deposited the same with him. The allowance for expenses out of the sum deposited must be made within ten days from the decision of the judge on the appeal. Id., § 11, as amd., L. 1878, ch. 59, § 2.

30 Hun, 548, 644; 66 id. 302; 49 St. Rep. 288; 70 Hun, 547; 53 St. Rep., 732.

NOTE.—An appeal can be taken under § 1357, Code Civil Pro., from such order of the judge, 49 St. Rep., 288.

15. WHEN ELECTION TO BE AFFIRMED.—If the county judge shall decide such election to be legal, he shall file an order to that effect in the county clerk's office of the county wherein such territory is located, or in case such territory shall be located in two or more counties, with the county clerk of each of such counties, within ten days from the day of making such decision. Id., § 12, as amd., L. 1878, ch. 59, § 3.

16. COUNTY JUDGE MAY ORDER NEW ELECTION; WHEN AND HOW SAME HELD.—If the county judge shall decide such election to have been illegal, he shall forthwith, on rendering his decision, make an order and file the same in the county clerk's office in the county in which such territory shall be, or in case such territory shall be located in two or more counties, with the county clerk of each of such counties, directing another election to be held to determine the question of the incorporation of such territory. The election so ordered shall be held

on notice of such election signed by some one or more of the persons designated as inspectors of election for the previous election as to incorporation, specifying the hours of opening and closing the polls and place of holding the same, stating the proposed name of village and the amount for ordinary expenditures for the first year, and giving the verbal description provided for hereinbefore, of the bounds of such territory; such notice to be published or posted as hereinbefore provided in relation to the previous election, for at least fifteen days before the election. Id., § 13, as amd., L. 1878, ch. 59, § 4.

17. NEW ELECTION, HOW HELD.— Such second election shall be held in the manner and by the persons as inspectors as hereinbefore provided for the first election, and with like powers to the inspectors, and the inspectors presiding shall make a certificate of such election, such as was required at the previous election, by this act, and file the same within ten days from the holding of such election as directed as to the certificate of the previous election. Id., § 14.

18. TERRITORY, WHEN TO BECOME INCORPORATED.— If the majority of the ballots at the first election, or in case the village is part or parts of two or more towns, the majority of ballots in each part of the two or more towns shall have on them the word "yes" and no appeal is taken from such election within the time hereinbefore specified for that purpose, then such territory shall be an incorporated village within the intent of this act from the time of the filing of the certificate or certificates of the inspectors. If the majority of the ballots cast at such election or in the parts of each town composing such proposed village have on them the word "yes" and an appeal is taken and decided favorably to the legality of the election, then such territory shall be an incorporated village within the intent of this act from the date of the filing of the certificate of the inspectors as hereinbefore provided. If the decision on the appeal is adverse to the election and the second election shall result in a majority of the ballots cast in each and every part of the parts of the town or towns within the bounds of the proposed village having thereon the word "yes," then from the date of the filing of the certificate of inspectors as hereinbefore required of such second election in the county clerk's office of the county where the territory is located or in case such territory shall be located in two or more counties with the county clerk of each of such counties; such territory shall be an incorporated village within the intent of this act. No appeal is allowed from such election. No village composed of part or parts of the two or more towns shall be incorporated under this act unless a majority of the ballots cast at the election provided for by this section in each town shall have

thereon the word "yes." Id., § 15, as amd., L. 1878, ch. 59 and as amd., L. 1892, ch. 194.

19. WHEN NEW ELECTION ALLOWED AFTER UNFAVORABLE VOTE.—If at either of such elections a majority of the ballots cast shall have on them the word "no," then such territory shall not be an incorporated village, and in that case no second election can be held under this act within two years from the time the first of such elections was held. Id., § 16.

20. NAME AND POWERS OF CORPORATION.—The inhabitants of any village incorporated under this act shall be a corporation by the name stated in the notice of the election incorporated in the certificate of the inspectors who presided at the election which decided the question of incorporation, on file in the county clerk's office of the county wherein such village is situated, and may sue and be sued, complain and defend, in any courts by such name; may make and use a common seal and alter it, and receive, by gift, purchase, grant, devise or bequest, subject to all provisons of law now existing, relating to devises and bequests by last will and testament, and hold and convey such real and personal estate as the purposes of the corporation may require, as may be authorized by the provisions of this act. Id., § 17.

21. FIRST ELECTION FOR OFFICERS; NOTICE OF.—Within twenty days after the day on which such territory shall become and be incorporated as a village, the persons hereinbefore designated as inspectors of the first election, or a majority of them, shall publish or cause to be published in a newspaper, if one shall be published in said village, and post or cause to be posted, in ten public places in such village, a notice stating that, on a day stated and at a place named in such village, and between certain hours, an election will be held for the election of such village officers as shall be required to be elected by this act. Such notice shall be published (if published at all in a newspaper) and posted at least fifteen days before the time of holding such election. Such election shall be held for at least the space of four hours uninterruptedly, between ten o'clock in the forenoon and four o'clock in the afternoon, and the notice of election shall state the hours of opening and closing the polls and the names of the offices to be filled. The provisions of section eight, title one of this act, shall, so far as applicable, apply to the election held under this section. Id., § 18.

22. SAME: CANVASS AND CERTIFICATE OF RESULT.—The persons presiding as inspectors, or a majority of them, at any election held by virtue of this act, after the village shall have been incorporated, shall immediately canvass the votes, openly

declare the result, and make and subscribe a certificate of such canvass, showing the whole number of votes given, the number given for each person voted for, and the office for which he shall have been voted for, which certificate shall be recorded in the records of said village. Id., § 19.

23. PLURALITY TO ELECT.— The person eligible and having the greatest number of votes for any office shall be deemed elected to such office. If there shall be a tie to a particular office between two or more persons eligible, and having the greatest number of votes, the person presiding at such election shall forthwith determine by lot, in the presence of the other inspectors or of a majority of them, which shall be deemed elected, and set forth such fact in the certicfiate of the result made by them. This section shall apply to all subsequent elections under this act. Id., § 20.

24. VILLAGES WITH SPECIAL CHARTERS.—The trustees and officers of any village of this state created by special charter shall have and possess the same powers as are prescribed in any general act for the incorporation of villages within this State, except as such special charter may be in conflict with any provision or provisions of said general acts. L. 1884, ch. 308, § 1.

NOTE.— The word "powers" includes not only the power to act but to be acted upon in compliance with the provisions of the general law. 70 Hun, 589; 53 State Rep., 741.

25. NOTICE TO BE GIVEN BY CERTAIN APPLICANTS.— All persons applying to divide or alter the bounds of any county, city, or village; or to erect a new county; or to incorporate a new city or village.

And all persons applying for the removal of any court-house; or the imposing of a tax for making or improving a road, or for any other local purpose in any county, where all or any of the inhabitants of such county are proposed to be taxed:

Shall give notice of such intended application by advertisement to be published for at least six weeks successively, immediately before such application, or before the first day of the session at which the same is to be made, in a newspaper printed in the county or in each of the counties where the objects of such application are intended to be carried into effect, and also in case of intended application for the imposition of any tax as aforesaid in the State paper.

1 R. S. 155, I.

26. CERTAIN APPLICANTS TO PUBLISH NOTICE AND MAP.— All persons intending to apply to the Legislature for the erection of new county, or for the incorporation of a city or village; or for any alteration of the bounds of any county, city, or

village, shall cause notice to be published of such intended application, as required by law; and shall also procure an accurate survey and map of the territory described in such application.
1 R. S., 86, I.

CHAPTER II.

VILLAGE OFFICERS.

27. ENUMERATED.— The officers of a village incorporated under this act shall be as follows, unless otherwise herein directed:

A president, three trustees, a treasurer, a clerk, a collector and a street commissioner. L. 1870, ch. 291, T. 2, § 1.
54 St. Rep., 95.

28. ELECTION OF ADDITIONAL TRUSTEES.— If the resident population of the village shall exceed fifteen hundred, then if the board of trustees shall by resolution so direct an additional trustee may be elected for each five hundred of population over the fifteen hundred until the entire number of trustees exclusive of the president, shall be nine. Id., § 2, as amd., L. 1887, ch. 514, § 1.
6 N. Y. St. Rep., 121; 54 St. Rep., 95.

29. ELECTION OF VILLAGE OFFICERS.— The president, treasurer, collector and one-half of the trustees if an even number shall be elected annually and if odd number the smallest majority of them, shall be elected at one annual election and the largest minority at the next annual election. The first election after incorporation shall be deemed an annual election for the purposes of this section and whenever for any reason a greater number of trustees are to be elected at a single election than is above provided the trustees may in their notice for the election designate the number of trustees to be elected for one and two years respectively so that the number elected annually thereafter shall be as above provided. The clerk and street commissioner shall be appointed annually by the board of trustees. Id., § 3, as amd., L. 1892, ch. 593.

30. PROVISIONS AS TO TERMS OF OFFICE.— The first election of trustees of any village heretofore held in any year since the year eighteen hundred and seventy-nine, or that may hereafter be held, pursuant to an act* entitled "An act to provide for the incorporation of villages," passed April twentieth, eighteen hundred and seventy, and the acts amendatory thereof, shall not be invalid on account of the failure of the electors at such first election to designate in their ballots the respective

* L. 1870, ch. 291.

terms of office of the person voted for for trustees; but the persons for whom a majority of the votes shall have been cast for trustees shall be deemed to be the only elected trustees of such village for the year for which such election was held; and such trustees shall, at least ten days before the time for the next annual election of trustees for such village, meet with the president of such village, and the said president shall, in the presence of such trustees, determine by lot which of said trustees shall have been elected for one year, and which of them for two years. The terms of office for the first class shall expire on the expiration of one year from the day they took office, and the terms of office of the second class, on the expiration of two years from the day they took office. If the number of trustees is three or any other odd number, the smallest majority shall serve for two years, and the largest minority for one year. The president shall make and file in the office of the clerk of such village a certificate, stating the names of such trustees and the terms of office of each as so determined. L. 1881, ch. 17, § 1.

31. CHIEF ENGINEER AND FIRE WARDENS; POLICE CONSTABLE; SEALER OF WEIGHTS AND MEASURES.— The board of trustees may, if in their judgment necessary, appoint each year, a chief engineer of the fire department, one or more assistants, one or more fire wardens, one or more police constables, and a sealer of weights and measures. L. 1870, ch. 291, T. 2, § 4.

32. SLIPS OF SESSION LAWS TO BE FORWARDED TO CLERKS.— The county clerk of each county shall, on or before the first day of January of each year, notify the Secretary of State of the total number of town, village and city clerks within such county. The Secretary of State as soon as practicable after the receipt of the slips of the session laws from the printer, shall send to the county clerk of each county a sufficient number of each printed slip of each law and concurrent resolution of the Legislature to supply each town, village, city and county clerk within such county with one copy of each of such slips. The county clerk of each county, as soon as practicable after the receipt thereof, shall send one of each such slips to each town, village and city clerk within such county, and shall retain one of each such slips on file in his office. Such distribution by the county clerk shall be by mail and shall be a county charge. Such slips shall be kept on file in the offices of such clerks, arranged in the order in which they were passed. L. 1893, ch. 132.

33. TERMS OF OFFICE.— All officers elected or appointed under this act shall hold their respective offices one year, except the trustees, who shall hold their offices for the term for which elected; and the said officers shall so hold for the respective terms aforesaid, unless sooner removed or disqualified, and until their

successors shall be elected or appointed and qualified, excepting that the board of trustees may from time to time appoint police constables for a less term than one year. Id., 5, as amd., L. 1880, ch. 82, and as amd., L. 1892, ch. 593.

34. NOTICE TO OFFICERS ELECTED.—The inspectors of election, presiding at any election, or the clerk of the village, shall, within five days after such election, notify the persons elected of their election. Id., § 6.

35. OATHS OF OFFICE.—Every person elected or appointed to office under this act who shall neglect to file the oath of office hereinafter required for five days after personal notice, in writing, from the inspectors of election or the village clerk, of his election or appointment, shall be deemed to have declined the office, and his place may be filled as in case of a vacancy. Id., § 7.
57 Hun, 272; 32 St. Rep., 643.

36. ELIGIBILITY TO OFFICE.—No person shall be eligible to any office, unless he shall be at the time a resident and elector of the village. But any woman of the age of twenty-one years or over residing in such village shall be eligible to the office of clerk of such village. Whenever any officer of the village shall cease to be a resident thereof his office shall become vacant. Id., § 8, as amd., L. 1893, ch. 618.

37. PRESIDENT AND TRUSTEES TO BE TAXPAYERS.—No person shall be eligible as president or trustee unless owning property liable to be assessed for the expenditures of the village. Id., § 9.

38. VACANCIES, HOW FILLED.—If there shall be a vacancy in any office under this act the board of trustees may fill the same.—Id., §10; as amd., L. 1892, ch. 593.
44 Hun, 571, 581.

39. CERTAIN OFFICERS TO GIVE BONDS.—The treasurer, collector, street commissioner, police constable, and such other officers as may be required by the board of trustees, shall severally, before they enter upon the duties of their respective offices, execute and file with the village clerk a bond to the village, in such sum and with such sureties as the board of trustees shall approve, conditioned that they will faithfully execute the duties of their respective offices, and account for and pay over all moneys received by them respectively. Id., § 11.
81 N. Y., 406.

40. COMMISSIONERS OF EXCISE.—There shall be three commissioners of excise in each town, composing the board of excise of such town, who shall be divided into three classes, each of whom shall hold his office three years. No supervisor, town

clerk, justice of the peace or trustee of a village shall be a commissioner of excise. L. 1890, ch. 569, § 16.

NOTE.—Villages *as such* have no separate board of excise.—Ed.

41. INTEREST IN MANUFACTURE OR SALE OF LIQUORS, ETC., PROHIBITED.—It shall be unlawful for any excise commissioner, excise inspector, police commissioner, police inspector, captain, sergeant, roundsman, patrolman or other police official or subordinate of any police department or any commissioner of excise or inspector of excise, in the several villages, towns and cities of this state, to be either directly or indirectly interested in the manufacture or sale of spirituous or malt liquors, ales, wines or beer or to offer for sale, or recommend to any dealer therein, any spirituous or malt liquors, ales, wines or beer. L. 1890, ch. 163.

42. PRESUMPTIVE EVIDENCE THEREOF.—The solicitation or recommendation made to any dealer therein, to purchase any spirituous or malt liquors, ales, wines or beer by any excise commissioner, excise inspector, police official or subordinate as herein above described, shall be presumptive evidence of such official or subordinate being interested in the manufacture or sale of such spirituous or malt liquors, ales, wine or beer. Id., § 2.

43. OFFICERS TO TAKE OATH.—Every excise commissioner, excise inspector, police commissioner, or other head of police, police inspector, captain, sergeant, roundsman, patrolman or other police official or subordinate of any police department in the several villages and cities of this state, shall, within thirty days after the passage of this act, make and subscribe an oath before an officer duly authorized to take the acknowledgment of deeds, to the effect that he is neither directly or indirectly interested in the manufacture or sale of any spirituous or malt liquors, ales, wine or beer, and such of the above-named officers as are hereafter elected or appointed shall make and subscribe such oath and file the same as herein provided, and a false statement in this respect thus made under oath by any excise commissioner, excise inspector, police official or subordinate hereinabove mentioned shall be deemed perjury, and be punishable as such. Said oath shall be filed in the clerks office of the town or village or with the police department of a city. A failure to take the oath in this section prescribed shall disqualify any one from holding or debar any one from continuing to hold, any office or position mentioned in this act. Id., § 3.

44. OATHS OF OFFICE TO BE FILED.—Every person elected or appointed to office under the provisions of this act, shall, before he enters on the duties of his office, take, subscribe and file with the village clerk, the oath of office provided by the Constitution. Such oath of office may be taken before the village

clerk, a justice of the peace or a judge or justice of a court of record. L. 1870, ch. 291, T. 2, § 12, as amd., L. 1887, ch. 68, § 1.

44a. FORM OF OATH.—Members of the Legislature (and all officers, executive and judicial, except such inferior officers as shall be by law exempted) shall, before they enter upon the duties of their respective offices, take and subscribe the following oath or affirmation: "I do solemnly swear (or affirm) that I will support the Constitution of the United States, and the Constitution of the State of New York, and that I will faithfully discharge the duties of the office of according to the best of my ability;" and all such officers who shall have been chosen at any election shall, before they enter on the duties of their

41a. ELIGIBILITY TO OFFICE OF COMMISSIONER OF EXCISE.—No person shall be eligible to the office of commissioner of excise who is a supervisor, justice of the peace or town clerk of a town, or a president or trustee of an incorporated village, or engaged or interested in the sale or manufacture of strong or spirituous liquors, wine, ale or beer, or who is not a citizen of this state and a resident of the town or city for which he is elected or appointed. If a commissioner of excise of a town or city shall cease to be a resident thereof, his office shall thereupon become vacant. L. 1892, ch. 401, § 3.

duct, on notice to such officer, and opportunity given him to make his defense. Id., § 14.

47. ELECTIONS, WHEN HELD; NOTICE; BALLOTS.—Elections of elective officers of the corporation after the first election of officers shall be held annually on the third Tuesday of March, commencing at one o'clock in the afternoon, or at such earlier hour in the day after sunrise as the board of trustees may direct and shall continue until sunset, at such place as shall be designated by the trustees or a majority of them, but in case the notice prescribed in section seven of title one of this act shall designate a day upon which the annual election of elective officers of the corporation after the first election shall be held in each

year, the annual election of such officers shall be held on said day, (instead of the third Tuesday in March,) each year after the first election, at one o'clock in the afternoon of said day and continue until sunset at such place as shall be designated by the trustees or a majority of them; at least six days' notice shall be given by the trustees or a majority of them, prior to said election, by posting notices in six conspicuous places in the village by the clerk, or some one appointed by the trustees, if there is no clerk, and such notice shall specify the hour at which such election shall commence. In case the trustees neglect to appoint a place, the election shall be held at the place of the last preceding annual election, and in case they neglect to appoint the hour of commencing, the election shall commence at the same hour as did the last preceding annual election. But any village incorporated under the provisions of this act may change the date on which such election shall be annually held to some other day, provided, however, that such change shall not be made unless upon the written application of the voters representing a majority of the taxable property of such village, directed to the board of trustees of such village, requesting the said board to submit the question of such change to a vote of the duly qualified voters of such village; upon the presentation of such application to the board of trustees, it shall be the duty of such board to cause written or printed notices of such election to be posted up in at least six conspicuous public places in such village, stating the object of such election and the date and time on which the same shall be held, which time shall not be less than thirty days nor more than sixty days from the time of posting such notices. Suitable ballots for such election shall be prepared under the direction of the board of trustees of such village. The said board of trustees shall preside at such election, shall canvass the votes cast, shall declare the result thereof and shall file a certificate thereof signed and sworn to by them in the office of the village clerk in such village. If a majority of all the votes cast shall be in favor of such change to another day than that named herein, then, and in that case, such annual election shall thereafter be held in such village on the day specified by a majority of the voters of such village. Id., § 15, as amd., L. 1887, ch. 68, and L. 1888, ch. 172, § 2.

48. WHEN AND HOW SPECIAL ELECTIONS TO BE HELD.— Whenever the day fixed by law for the election of the officers of any incorporated village in this State shall have passed, and no election thereof shall have been held, the clerk of such village shall give public notice of the time and place at which a special election thereof will be held; such election shall be held at some public place within the corporate bounds of said village, and on a day not more than three, nor less than two, weeks from the giving of such notice. Such notice shall be given by posting

a written or printed notice, signed by said clerk, on the outer door of each place of public religious meeting in such village, and on the outer door of each place where a public school is held in such village, and in the common room of each inn or tavern therein. All provisions of law in relation to the holding elections in such village shall apply to the election herein authorized, and the officers elected thereat shall hold their offices until their successors shall be chosen according to law. L. 1868, ch. 462, § 1.

49. ACTS OF CERTAIN OFFICERS CONFIRMED.— No act or proceeding of any duly elected officer of such village holding over in his office shall be deemed invalid by reason of the same having been had or done after his term of office, had expired. Id., § 2.

50. INSPECTORS OF ELECTION.— The trustees and clerk of the village, after the first election of officers, shall be inspectors of elections, for the village, and one or more of them shall preside at all elections. In case a trustee or the clerk shall not be present the electors may appoint a chairman to preside, who shall have all the powers of an inspector under this act. L. 1870, ch. 291, T. 2, § 16.

51. RETURNS OF ELECTION TO BE FILED.—The return of every election under this act, after the election or elections as to incorporation, shall be filed with the clerk of the village. Id., § 17.

52. SUBMISSION OF PROPOSITION TO CHANGE NAME TO ELECTORS.— Upon the written application of twenty-five taxpayers of any village, the board of trustees thereof shall submit to the electors of the village at the next annual village election, a proposition to change the name of the village to a name specified in such application, said name having been approved by the postmaster-general. The board of trustees shall cause a notice to be posted in six public places in such village, and published in the official village newspaper, if any, at least two weeks previous to such annual election, specifying the name which it is proposed such village shall assume. The board of trustees and clerk presiding at such annual election shall canvass the vote upon such resolution in the manner provided by law for the canvass of other votes at such election. If a majority of the ballots cast are in favor of the proposed new name such name shall be adopted. Immediately upon the completion of the canvass the return of the vote upon such proposition, signed by the trustees, shall be filed with the village clerk and the clerk of the county or counties within which such village is situated. Thereafter the village shall be known and designated by the name adopted at such election. Id., § 18, added by L. 1893, ch. 464.

53. LEGALIZATION OF INFORMAL ACTS.—The board of supervisors may by a two-thirds vote of all its members, legalize the informal acts of any town meeting or village election within such county, and the regular acts of any one or more town or village officers, performed in good faith, and within the scope of their authority. L. 1892, ch. 686, § 15.

54. EXPENSES OF ELECTION.—The expense of printing and delivering the ballots and cards of instruction to be used at a town meeting, city or village election, not held at the same time as a general election, and of printing the lists of nominations therefor, shall be a charge upon the town, city or village in which the election is held.

The expense of printing and delivering the ballots and cards of instruction to be used in any county at any other election, if no town meeting, city or village election be held at the same time therewith, and of printing the lists of nominations therefor, shall be a charge upon such county.

The expense of printing and delivering the ballots and cards of instruction to be used in any county at any such other election, and of printing the lists of nominations therefor, if a town meeting, city or village election be held in such county at the same time therewith, shall be apportioned by the county clerk between such town, city or village, and such county, in the proportion of the number of candidates for town, city or village officers on such ballots, respectively, to the whole number of candidates thereon, and the amount of such expense so apportioned to each such municipality shall be a charge thereon. L. 1892, ch. 680, § 17. See L. 1892, ch. 680, for full text of election law.

55. REGISTRY.—Elsewhere than in cities the register of voters for a special election shall be the register of voters of the then last preceding general election in the district. See Id., § 32.

56. ADDING NAMES WHERE NEW DISTRICT FORMED. —If a new election district shall have been formed in a town since such general election, the clerk of such town shall, before the first meeting for registry thereafter in such new election district, make a certified copy of each poll-list for such general election of each election district out of which such new district shall have been formed, and shall cause such certified copies to be delivered to the board of inspectors of such new election district at the opening of such meeting for registry. Such board at such meeting shall place upon the list of voters all persons whose names are upon such copies who are qualified to vote in such election district at the election for which such meeting is held. See Id., § 34.

57. FILING CERTIFICATE OF NOMINATIONS.—Certificates of nomination of candidates for officers of any other city, or

for officers of a village or town, to be elected at a different time from a general election, shall be filed with the clerk of such city, village or town respectively. See Id., § 58.

58. POSTING TOWN AND VILLAGE NOMINATIONS.— Each town and village clerk shall cause at least ten copies of a like list of all nominations to office filed with him to be conspicuously posted in ten public places in the town or village, at least one day before the town meeting or village election, one of which copies shall be so posted at each polling place of such town meeting or village election. Id., § 62.

59. DECLINATION OF NOMINATION.— The name of a person nominated for a town or village office, shall not be printed on the official ballots, if he shall before the ballots are printed, give written notice that he declines such nomination to the town or village clerk. See Id., § 64.

60. ELECTIONS FOR WHICH OFFICIAL BALLOTS SHALL BE PROVIDED.— Official ballots shall be provided at public expense at each polling place for every election at which public officers are to be elected directly by the people, except an election of school district officers or school officers of a city or village at which no other public officer is to be elected. Id., § 80.

61. BALLOTS AND INSTRUCTION CARDS.— If a city or village election or a town meeting, for the election of public officers, shall be held upon a different day from a general election, the clerk of such city, village or town respectively shall provide the requisite number of such ballots and cards of instruction for each polling place of such election or town meeting. See Election Law, L. 1892, ch. 680, § 85.

62. DISTRIBUTION OF SAME.— Town, city and village clerks required to provide ballots for town meetings, city and village elections held at different times from a general election, and the boards of the city of New York and Brooklyn required to provide the ballots for elections held therein, respectively, shall in like manner, deliver to the inspectors or presiding officers of the election at each polling place at which such meetings and elections are held, respectively, the official ballots, sample ballots and instruction cards required to be provided therefor, respectively, in like sealed packages marked on the outside in like manner, and shall take and file receipts therefor in like manner, in their respective offices. See Id., § 87.

63. DELIVERY AND FILING BY INSPECTORS OF PAPERS RELATING TO ELECTION.— If the election be an election of town, city or village officers, held at a different time from a general election, elsewhere than in the cities of New York and Brooklyn, such certified statement of the result of the

canvass, the certified minutes as to challenges, the poll-lists of the election, the packages of detached stubs and unvoted ballots, and if it be an election at which any registered voters can vote, the register and two certified copies thereof used and checked at the election shall, forthwith upon the completion of the canvass, be filed by the inspectors with the clerk of the town, village or city as the case may be. See Id., § 117.

64. FAILURE TO FILE CANDIDATE'S STATEMENT OF EXPENSES.—Every candidate who is voted for at any public election held within this State shall, within ten days after such election, file as hereinafter provided an itemized statement showing in detail all the moneys contributed or expended by him, directly or indirectly, by himself or through any other person, in aid of his election. Such statement shall give the names of the various persons who received such moneys, the specific nature of each item, and the purpose for which it was expended or contributed. There shall be attached to such statement an affidavit subscribed and sworn to by such candidate, setting forth in substance that the statement thus made is in all respects true, and that the same is a full and detailed statement of all moneys so contributed or expended by him, directly or indirectly, by himself or through any other person, in aid of his election. Candidates for offices to be filled by the electors of the entire State, or any division or district thereof greater than a county, shall file their statements in the office of Secretary of State. The candidates for town, village and city offices, excepting in the city of New York, shall file their statements in the office of the town, village or city clerk, respectively, and in cities wherein there is no city clerk, with the clerk of the common council of the city wherein the election occurs. Candidates for all other offices, including all officers in the city and county of New York, shall file their statements in the office of the clerk of the county wherein the election occurs. Any candidate for office who refuses or neglects to file a statement as prescribed in this section shall be guilty of a misdemeanor, and shall also forfeit his office. Penal Code 41 w, as amd., 1892, ch. 693.

CHAPTER III.

GENERAL POWERS AND DUTIES OF TRUSTEES.

65. MEETINGS OF TRUSTEES.—The board of trustees shall meet at such times and place in the village as they shall by resolution direct. Special meetings may be called by the president or by the clerk, on the written request of two trustees, at

such time and place as the written notice to be served on the trustees shall direct. This notice shall be served at least one hour before time of meeting. L. 1870, ch. 291, T. 3, § 1.

66. PRESIDING OFFICER; QUORUM.—The president, when present, shall preside at meetings of the board, and have a vote on all questions; in his absence, any trustee may be appointed president for the time. A majority of the board shall constitute a quorum for the transaction of business. Id., § 2.

67. POWERS OF TRUSTEES.—The trustees shall have the care, management and control of the finances and property, and custody of the records and papers and seal, belonging to the corporation; and may keep all buildings and other property of the corporation in repair, and insured against damage or loss by fire. The trustees shall have power, as to acts and matters within the the corporate bounds, to make, publish, amend and repeal rules, ordinances and by-laws for the following purposes:

1. To declare and define the duties, and manner of discharging the same, of all officers of the corporation whose duties are not specially prescribed by this act, and to add to the duties of those officers whose duties are thus prescribed, if the board of trustees deem necessary, and to fix the compensation of such officers, if not fixed by this act.

2. To prevent vice and immorality, preserve the public peace and order, to restrain and suppress disorderly houses and houses of ill fame or of assignation, gaming houses, and instruments and devices for gaming.

51 Hun, 291.

3. To establish and maintain a police, to prescribe their powers and duties, and to erect and maintain a lock-up, or designate a place for the detention of persons arrested under this act, or under any by-law, rule or ordinance of said village, and to confine said persons therein; and it shall not be lawful for any constable of the town or county in which any village incorporated under this act is situated, to make any charge against such village, or town or county in which the same is situated, for services rendered in, or respecting any criminal arrests or proceedings before magistrates or courts of special sessions, or in or respecting any cases, trials or examinations in such village, where the subject-matter thereof arose in such village after the establishment and during the maintenance of a police in such village under this act; and it shall not be the duty of any constable to perform any service for which he is hereby prohibited from making a charge. As amd., L. 1878, ch. 249; L. 1881, ch. 387, and L. 1883, ch. 153.

4. To apprehend and punish common prostitutes, vagrants and

disorderly persons, and persons unnecessarily congregated upon the sidewalks or corners, or disturbing a public assembly.

51 Hun, 291; 22 St. Rep., 558; 51 Hun, 620.

5. To employ an attorney or attorneys for the transaction of any matter requiring legal skill.

6. To prevent incumbering the streets, squares, sidewalks, crosswalks, lanes and alleys with any material whatever.

7. To prevent or regulate any encroachment, or the erection of any projection from or opposite of any building in or over or upon any of the streets or sidewalks, and cause the same to be removed at the expense of the owner or occupant of the premises.

8. To establish and maintain a public pound, and appoint a keeper thereof, and to regulate his compensation and fees.

9. To restrain the running at large of cattle, sheep, horses, swine, geese or other animals, and to authorize the distraining, impounding and sale of the same for the penalty and costs of keeping and proceedings.

10. To provide for the lighting of the streets and safety of the lamps.

11. To erect and maintain fire engine houses, hook and ladder and hose houses.

12. To provide for the purchasing and repairing of fire engines, hooks and ladders, hose carts and hose, and all other necessary apparatus for the same.

13. To construct and maintain reservoirs and cisterns, and supply them with water for use at fires; to protect and preserve property at fires; to establish fire limits, within the corporate bounds, by resolution of the board of trustees, describing the same by metes and boundaries, which resolution shall be filed in the office of the village clerk, and be posted in three public places within the corporate bounds, to prevent fires and provide for their extinguishment. As amd., L. 1874, ch. 78, § 2.

NOTE.—L. 1874, ch. 474, was entitled "An act to amend an act entitled 'An act for the incorporation of villages,' passed April twentieth, eighteen hundred and seventy, and the acts amendatory thereof, so far as the same relate to the village of Port Henry, in the county of Essex and State of New York." As there may be some doubt as to whether it applies to any village except Port Henry, it is given in full:

"Subdivision thirteen of section three of title three of chapter two hundred and ninety-one of the laws of eighteen hundred and seventy is hereby amended by adding thereto the following:

"To enter and to authorize others to enter in the day-time, when it shall be necessary to do so, into any building in the said village in which shall be a fireplace, chimney, stove or stovepipe, for the purpose of examining the condition of the same, and to make such regulations in regard thereto as a proper security against fires shall in their judgment require; also, to prohibit the erection or construction of buildings, cornices or roofs of wood or other material liable to fire, within or in the vicinity of the compact part of the village, to be specified by the board of trustees of said village, and to make such regulations in regard thereto as a proper security against fire shall in their judgment require."

14. To regulate and prevent any act, amusement or practice endangering property or person on the streets or sidewalks or public grounds. And to require the owner or lessee of any public hall or opera house, before being let for public use, to obtain from such board of trustees a written annual permit, which shall be granted, provided such hall or opera house has suitable and safe means of ingress and egress in case of panic or fire, but not otherwise, provided in such case no liability shall be incurred by such village by reason of such license or permit. As amd., L. 1882, ch. 305.

15. To regulate and prevent the running at large of dogs in the village.

16. To protect trees, provide for keeping the sidewalks free from snow, ice, dirt and other obstructions; and to direct and compel the cleaning of the streets by the persons owning or occupying the premises fronting thereon.

17. To regulate swimming and bathing in the waters within and bounding the village.

18. To prevent immoderate riding or driving within the corporate limits, leaving horses untied in the streets, and to authorize any officer to stop anyone guilty of such riding or driving in the streets.

19. To regulate the time, place and manner of keeping and selling meats, fish, vegetables and other agricultural products, and the location of slaughter-houses and places and houses for storing of gunpowder, or other explosive material.

20. To compel the removal and abatement of any public nuisance, and, if not done within such time as the trustees may allow, to cause the same to be removed or abated at the expense of the village, and to declare such expense to be a lien upon the lot on or in front of which it was, and to enforce the collection of such expense by leasing the premises in the manner prescribed in this act for the collection of unpaid taxes, or by action against the owner or occupant of such lot, or any other person who may maintain or control such nuisance.

56 N. Y., 268.

21. To prohibit or regulate all exhibitions or performances for money or hire, or to authorize the same, on such terms as the trustees shall deem expedient.

22. To restrain, regulate or prevent hawking and peddling in the streets; to regulate, restrain or prohibit sales by auction, and grant licenses to peddlers and auctioneers, and fix the amount to be paid therefor; to regulate the use and running of all hacks, public carriages or vehicles for the conveyance of passengers, baggage or movables of any kind, for hire through the public streets; to designate their places of waiting, and grant a license

to the owners or proprietors thereof, and fix the amount to be paid for the same. As amd., L. 1874, ch. 78, § 1, and L. 1878, ch. 281, § 1.

34 St. Rep., 237; 58 Hun, 238.

NOTE.—The trustees of any village in this state incorporated under special act of the legislature, and who have not the powers hereinafter conferred, shall, from and after the passage of this act, have power and authority to restrain, regulate or prevent hawking and peddling in the streets; except the peddling and sale of meats, fish, fruits and farm produce, to regulate, restrain or prohibit sales by auction, and grant licenses to peddlers and auctioneers, and fix the amount to be paid therefor. L. 1883, ch. 465, § 1.

23. To regulate the use of candles, kerosene or burning materials of any kind, or lights or fires in barns and stables, and other places liable to take fire, and to control the construction of buildings, as to material, and prescribe the limits within which wooden buildings shall not be built, and prescribe the penalty not exceeding one thousand dollars, for a violation of any ordinance pased relating thereto. As amd., L. 1877, ch. 16.

13 Abb., N. C., 468.

24. To regulate and control all existing public cemeteries, and provide for the establishment of new ones, and to prevent all interments within the bounds of the corporation, except in such cemeteries.

25. To keep the roads, avenues, streets, alleys, public buildings and public places of the village in good order, repair and condition; to construct culverts and drains; to make and repair all bridges which may be necessary within the bounds of the village; to regulate and prescribe the width, line and grade of streets, avenues, alleys and sidewalks, to pave, macadamize, plank or flag streets, roads, alleys and gutters, and to assess the expense thereof in crossing streets and alleys and along village property, and such additional portion thereof as shall appear to said board of trustees to be just and equitable, not exceeding one-third thereof in all, upon the taxpayers of the village, and to assess the remainder of the expense upon the owners of the lots upon or in front of which the street or alley is paved, in a just proportion, as near as may be, according to the benefit accruing to said lots respectively; and upon the petition signed by a majority of the taxpayers of any street, to cause such street to be sprinkled, the expense thereof to be assessed upon the property benefited and to lay out and open new roads, alleys, and streets; to widen, alter and change the grade or otherwise improve roads, avenues, streets, alleys and sidewalks; to drain stagnant waters, and to raise or fill up low grounds, if nuisances, and assess the expense thereof upon the property benefited, in proportion to the amount of such benefit, and to regulate the water courses, ponds and watering places in the village; to

cause all necessary sewers to be built, and assess the expense thereof in crossing streets and alleys along the village property upon the taxpayers, and the remainder of the expense to be assessed upon the owners of the lots upon or in front of which said sewer is made, or which are benefited thereby, in a just proportion, as near as may be, according to the benefit accruing to said lots respectively. The amount of the benefit in any case where the same is made the basis of assessment under this section, shall be determined by the president and trustees; provided, however, that no property beyond the limit of one hundred and seventy-five feet from the line terminus of any such sewer shall be liable to assessment for the expense of building the same; provided, also, that no streets or alleys shall be paved or macadamized and no sewer shall be constructed, under the provisions hereof, except upon a written petition, signed by a majority of the resident owners of the property which shall be liable to assessment for the said expense. All assessments for the paving of streets, drainage of stagnant waters, the raising and filling up of low ground, of the building of sewers, under the provisions of this section, shall be made out, enforced and collected in the same manner as assessments for the annual village tax, except that in assessments for the building of sewers, where valuation is not the basis of assessment, the valuation of property may be omitted from the assessment-roll. Id., § 25; as amd., L. 1874, ch. 78, § 1; L. 1878, ch. 281, § 1; L. 1885, ch. 236; L. 1889, ch. 186, and L. 1893, ch. 212.

35 Hun, 329; 39 id., 243; 28 id., 344; 41 id., 270; 7 Lans., 434; 98 N. Y., 496; 100 id., 89, 283, 343; 34 St. Rep., 238; 42 St. Rep., 617.

26. To prevent and punish the discharge of fire arms, rockets, gunpowder and fireworks in the roads, avenues, lanes, streets and public places of the village, or in the vicinity of any building therein.

27. The board of trustees shall have power to make and establish all legal by-laws, rules and ordinances necessary to carry out the purposes of this act, print and pay for the same, and to enforce such by-laws, rules and ordinances, and to pay the expenses of such enforcement out of the corporate funds. The trustees shall also have power to prescribe penalties for a violation thereof, not exceeding one hundred dollars for each offense; but all such by-laws, rules and ordinances shall be posted in three public places in the village ten days before they shall take effect.

13 Abb. N. C., 468.

28. To regulate the landing within the village of boats while making excursions for pleasure, or the passengers therefrom, and in case the peace, order and quiet of the village shall require

the same, to prohibit such landing of boats and passengers, and to prevent and prohibit any such passenger or passengers from coming into said village, or the entertainment and harboring of such passengers therein. Added by L. 1884, ch. 129.

29. The president and trustees are further authorized and empowered to provide a proper and sufficient drainage and sewerage for the village, and to that end may agree for for* purchase and take conveyances for, in the name of the village, any real estate and right of way over any real estate, or any stream running through the village, or the town or county in which said village, or a part thereof, is situated for the purpose of such drainage or sewerage, or any suitable and proper place within said village, town or county, as may be determined upon by the president and trustees of the village, and may, by their agents or employes, for the purposes aforesaid and for such determination, enter upon the lands of any persons or corporations within the village, or within the town or county in which the village, or a part thereof, may be situated. In case the president and trustees of the village shall not agree with any owner or owners respecting any lands or rights which they may desire to acquire or may determine upon for the purposes aforesaid, or with the owner or owners of any lands through which said stream or its tributaries run, for the right to use the same for such purposes, then the said president and trustees shall cause a survey and map to be made of the lands intended or determined to be taken for said purposes, including the said stream and its tributaries, upon and by which the land of each owner and occupant thereof intended or determined to be taken or used for the purposes aforesaid, including said stream and its tributaries, shall be properly designated, which map shall be duly signed by the surveyor making the same and by the president of the village, and shall thereupon be duly filed in the office of the clerk of the county in which the land, real estate or stream, so to be taken, or any part thereof, is situated. The president and trustees of the village and the servants and employes thereof may enter upon any lands so desired or determined to be taken for the purpose of such drainage or sewerage for the making of such survey and map, doing no unnecessary damage, however, thereto; after the making and filing of said maps, the president and trustees of the village may apply to the Supreme Court, at any Special Term thereof, held in the judicial district in which the village is situated, for and obtain the appointment of three commissioners to be appointed by the court, none of whom shall be residents of, or taxpayers within the village, or interested in the lands or streams so deter-

* So in original.

mined to be taken, by whom the damages suffered or sustained, or to be suffered or sustained by any person or persons, corporation or corporations, for any cause whatever; by reason of taking of such lands, or rights of way, or using said stream for the purposes aforesaid, shall be ascertained and awarded and the amount of compensation therefor to be paid to any person or persons, corporation or corporations, duly determined. The Supreme Court may fill any vacancy which may occur by reason of the death, resignation, refusal or disability to act of any of the said commissioners. The said commissioners shall, before entering upon the duties of their office, take the usual constitutional oath of office, which shall be filed in the office of the clerk of the county in which such village or a part thereof is situated. The said commissioners shall cause a written notice of the time and place of their first meeting for the purpose of ascertaining and awarding the damages herein provided for, and the amount of compensation to be paid therefor, to be personally served upon such of the owners and occupants of said lands, so determined to be taken, as can be found within the county in which the same is situated, at least twenty days before the time of such meeting, and, in case of the absence of any such owner or occupants from their last or usual places of abode in said county, such notice may be served by leaving the same at such usual or last place of abode within said county, with some person of suitable age and discretion, at least twenty days before the time of such meeting. In case of the legal disability to act of any such owners or occupants, such service may, in like manner, be made upon the guardian, committee or other person having such person in charge. In case any of said owners are non-residents of the county in which said lands, real estate or streams are situated, and cannot be found therein, then such notice may, upon due proof of such fact being made to the Supreme Court or to a justice thereof, and upon an order therefor being duly granted by the said court or justice, be served upon such owners by publishing the same for six weeks successively, once in each week, in two newspapers to be designated by the court or justice granting the order. If any of said owners shall be insane, infants or idiots having no committee or general guardian, the Supreme Court shall, on proper application, appoint some suitable person to attend in their behalf, before said commissioners, and to protect their interests in the premises. The said commissioners may adjourn from time to time and to such place or places as they may deem advisable, and may issue subpoenas to compel the attendance of witnesses to testify before them, and shall have power to enforce obedience to their process. Any of the said commissioners may administer the usual oath to such witnesses. The said commissioners shall

make separate written reports of their proceedings had in relation to any real estate, right of way or stream not owned or occupied by the same person or corporation, except such ownership or occupancy shall be that of tenants in common or joint tenants, to which shall be annexed the testimony taken by them in relation thereto, and which reports shall show, in each case separately, the sum awarded, if any, as compensation to the owner and occupant or both, of the lands so determined to be taken or to any other person, as compensation for the damages suffered, and to be suffered, and cause the same to be filed in the office of the clerk of the county in which such land, stream or part thereof is situated. An order may be entered confirming each report, without notice, eight days after notice of the filing of the same shall have been served on the attorneys who appeared for the respective owners, occupants or persons interested before the commissioners, unless exceptions to said report shall, in the meantime, and after notice of such filing, be duly filed in the office where such report shall have been filed. The president and trustees of the village shall pay to each of said commissioners, not to exceed the sum of five dollars per day, for each day, necessarily spent in the performance by him of his duties as such commissioner, and to each witness whom said commissioners shall certify was properly subpoenaed to attend before them in behalf of the village, the fees to which such witnesses would be entitled to receive in the courts of record of this State, and to the surveyor and servants employed by them, their proper compensation for the service performed in the matters hereinbefore authorized, together with the necessary expenses conected therewith, all of which shall constitute a portion of the ordinary expenses of the village. The president and trustees of the village, or any party to the proceedings had before said commissioners, may appeal to the Supreme Court from any award or determination of said commissioners. Such appeal shall be to the General Term of said court, and must be taken within ten days after the service in writing of the notice of the filing of said report upon the party appealing, and must be by a written notice of appeal served upon the party or persons interested in the same, or upon the attorney who appeared for such party before said commissioners. The Supreme Court shall, upon such appeal, proceed to hear the same upon the report of said commissioners and the testimony taken by them, and may confirm the award appealed from or may increase or diminish the amount of the compensation awarded by said commisssioners to any person appealing, or may reverse any of the proceedings had before said commissioners and order new proceedings and awards to be had and made before and by such commissioners, as shall be deter-

mined by said court on such appeal. The confirmation of said report, or the award made on such appeal increasing or diminishing the amount awarded by the commissioners, shall be final. In case of a reversal of the proceedings had before the commissioners; and a rehearing before them, pursuant to the order or judgment of the Supreme Court, all notices in relation to such rehearing may be served on the attorney for or on the party appealing and upon the attorney for, or on the party adversely interested in such appeal in the manner hereinbefore provided for the service of a notice of hearing before said commissioners at their first meeting. The proceedings and report of the commissioners, upon such rehearing, the filing of the same and the confirmation thereof, and any appeal therefrom, the hearing thereon and all subsequent proceedings thereto, shall be had and taken, as herein provided, for the first hearing before said commissioners and the confirmation, modification or reversal of their report. Upon the payment or legal tender of the compensation awarded by the said commissiners, or by the Supreme Court, in case of an award made on appeal, the president and trustees of the village shall be entitled to and may enter upon and take all the lands and rights for which said compensation shall have been awarded as aforesaid, and may use and hold the same for, and permit the use thereof, under such regulations as they may prescribe, by the inhabitants of the village forever, for the purposes contemplated by this section; and the president and trustees of the village, their officers, servants and employes may at all times enter upon the lands through which the rights of way, as fixed by the report of said commissioners, or the order or judgment of the Supreme Court thereon, may extend, for the purpose of doing such work as may, in their judgment be necessary, to make the drainage and sewerage provided for in this section effectual. If any person, to whom any compensation shall be awarded, or who shall be entitled to the same, by virtue of said award, cannot be found, or shall refuse to receive such award, then said payment may be made by bringing the same into the Supreme Court and depositing the amount thereof, pursuant to the order of said court with the treasurer of the county in which the lands or rights for which such compensation was awarded are situated, to the credit of the person entitled thereto, as shown by said report, or the order or judgment thereon on appeal, and such deposit may thereafter be paid to the person or persons, corporation or corporations entitled to the same, on application to and as the Supreme Court shall direct. All real estate and rights acquired by the president and trustees of the village, pursuant to the provisions of this section, for the purposes therein set forth, shall be

deemed, and are hereby declared, to have been acquired for the public use. Added by L. 1887, ch. 513, § 1. L. 1870, ch. 291, T. 3, § 3, and as amd. by acts noted after the respective subdivisions affected.

68. ELECTRICAL SUBWAYS.—A company organized to construct and maintain electrical subways, must, before laying the line in a village, obtain from the trustees, permission to use the streets for that purpose. L. 1879, ch. 397, as amd. L. 1881, ch. 483.

69. TRUSTEES MAY SELECT BANKS FOR VILLAGE DEPOSIT.—The board of trustees shall also have the power and is hereby authorized to designate the banks in which the treasurer shall deposit all moneys belonging to the village, and require of such banks security for the payment of such moneys. The cashier of each of said banks shall report in writing to the board of trustees at each regular meeting thereof, the amount on deposit to the credit of the treasurer, at the close of the bank on the day of such meeting. Laws 1890, ch. 236.

70. PROSECUTION OF EXCISE BOND.—Whenever a breach of the conditions of such bond given upon the granting of any license, shall happen, it shall be the duty of the commissioners of excise, the supervisor of the town, mayor of the city or trustees of the village in which the person who shall incur the penalty shall reside, to prosecute the same and recover the penalty therefor. L. 1857, ch. 628, § 24.

71. PROSECUTION OF OFFICIALS FOR ILLEGAL ACTS.—All officers, agents, commissioners and other persons acting, or who have acted, for and on behalf of any county, town, village or municipal corporation in this State, and each and every one of them, may be prosecuted, and an action or actions may be maintained against them to prevent any illegal official act on the part of any such officers, agents, commissioners or other persons, or to prevent waste or injury to, or to restore and make good, any property, funds or estate of such county, town, village or municipal corporation by any person or corporations, jointly, the sum of whose assessments shall amount to one thousand dollars, and who shall be liable, to pay taxes on such assessment or assessments in the county, town, village or municipal corporation to prevent the waste or injury of whose property the action is brought, or who have been assessed or paid taxes therein upon any assessment or assessments of the above-named amount within one year previous to the commencement of any such action or actions. Such person or persons, corporation or corporations, upon the commencement of such action, shall furnish a bond to the defendant therein, to be approved by a justice of the Supreme Court or the county judge of the county in which the action is brought, in any such penalty

as the justice or judge approving the same shall direct, but not less than two hundred and fifty dollars, and to be executed by any two of the plaintiffs, if there be more than one party plaintiff, providing said two parties plaintiff shall severally justify in the sum of five thousand dollars. Said bond shall be approved by said justice or judge and be conditioned to pay all costs that may be awarded the defendant in such action if the court shall finally determine the same in favor of the defendant. The court shall require, when the plaintiffs shall not justify as above mentioned, and in any case may require two more sufficient sureties to execute the bond above provided for. Such bond shall be filed in the office of the county clerk of the county in which the action is brought, and a copy shall be served with the summons in such action. If an injunction is obtained as herein provided for, the same bond may also provide for the payment of the damages arising therefrom to the party entitled to the money, the auditing, allowing, or paying of which was enjoined, if the court shall finally determine that the plaintiff is not entitled to such injunction. In case the waste or injury complained of consists in any board, officer or agent in any county, town, village or municipal corporation, by collusion or otherwise, contracting, auditing, allowing or paying, or conniving at the contracting, audit, allowance or payment of any fraudulent, illegal, unjust or inequitable claims, demands or expenses, or any item or part thereof against or by such county, town, village or municipal corporation, or by permitting a judgment or judgments to be recovered against such county, town, village or municipal corporation, or against himself in his official capacity, either by default or without the interposition and proper presentation of any existing legal or equitable defenses, or by any such officer or agent, retaining or failing to pay over to the proper authorities any funds or property of any county, town, village or municipal corporation, after he shall have ceased to be such officer or agent, the court may, in its discretion, prohibit the payment or collection of any such claims, demands, expenses or judgments, in whole or in part, and shall enforce the restitution and recovery thereof, if heretofore or hereafter paid, collected or retained by the person or party heretofore or hereafter receiving or retaining the same, and also may, in its discretion, adjudge and declare the colluding or defaulting official personally responsible therefor, and out of his property, and that of his bondsmen, if any, provide for the collection or repayment thereof, so as to indemnify and save harmless the said county, town, village or municipal corporation from a part or the whole thereof; and in case of a judgment the court may, in its discretion, vacate, set aside and open said judgment, with leave and direction for the defendant therein to interpose and enforce any

existing legal or equitable defense therein, under the direction of such person as the court may, in its judgment or order, designate and appoint. All books of minutes entry or account, and the books, bills, vouchers, checks contracts or other papers connected with or used or filed in the office of, or with any officer, board or commission acting for or on behalf of any county, town, village or municipal corporation in this State are hereby declared to be public records, and shall be open, subject to reasonable regulations to be prescribed by the officer having the custody thereof, to the inspection of any taxpayer. This section shall not be so construed as to take away any right of action from any county, town, village or municipal corporation, or from any public officer, but any right of action now existing, or which may hereafter exist in favor of any county, town, village or municipal corporation, or in favor of any officer thereof, may be enforced by action or otherwise by the persons hereinbefore authorized to prosecute and maintain actions; and whenever by the provisions of this section an action may be prosecuted or maintained against any officer or other person, his bondsmen, if any, may be joined in such action or proceeding and their liabilities as such enforced by the proper judgment or direction of the court; but any recovery under the provisions of this act shall be for the benefit of and shall be paid to the officer entitled by law to hold and disburse the public moneys of such county, town, village or municipal corporation, and shall, to the amount thereof, be credited the defendant in determining his liability in the action by the county, town, village, or municipal corporation or public officer. The provisions of this act shall apply as well to those cases in which the body, board, officer, agent, commissioner or other person above named has not, as to those in which it or he has jurisdiction over the subject-matter of its action. L. 1892, ch. 301. See also Code Civ. Pro., §§ 1926-1931.

72. TRUSTEES TO AUDIT ACCOUNTS; LIMITATION OF ACTION AGAINST VILLAGE.—The trustees shall have the auditing of all accounts and claims against the village, and no account or claim shall be paid unless allowed by them, or after judgment obtained thereon. No action shall be maintained against the village for damages for personal injuries or injury to property alleged to have been sustained by reason of the negligence of the village or of any officer, agent or employe thereof, unless the same shall be commenced within two years after the cause of action therefor shall have accrued, nor unless the claim shall have been presented and notice of the time and place at which such injuries were received shall have been filed with the village clerk, or duly presented to the board of

trustees within one year after such cause of action shall have accrued. When an account or claim shall be audited by them, the trustees auditing the same shall cause to be indorsed thereon or annexed thereto, a certificate, signed by the president and countersigned by the clerk of the village, of such auditing and allowing or disallowing the same, in which the sum allowed and the fund out of which the same is to be paid shall be specified. Id., § 9, as amd. L. 1889, ch. 440.

37 Hun, 464, 465; 4 id., 321; 66 id., 136; 48 St. Rep., 887; 69 Hun, 442; 52 St. Rep., 782.

73. CLAIMS, HOW MADE OUT AND VERIFIED.—No such account or claim shall be allowed by the trustees unless the date of the work done or materials furnished shall be stated therein, and be made out in items and accompanied by the affidavit of the person claiming to have rendered the services or furnished the materials, or made the disbursements therein charged, that the items of such account or claim are correct as to the service, materials and disbursements mentioned, that such services and materials were rendered and furnished, and disbursements made for the corporation at the time stated therein, and no part of such claim has been paid. The claimant may be examined on oath by the trustees in relation to said claim and the items thereof. The affidavit and oath herein mentioned may be taken before the president of the village, or any of the trustees, or the clerk of the village, and when certified by either of them, may be read in evidence in any court of this State in the same manner as oaths and affidavits taken and certified by a justice of the peace; but no fee shall be charged or received by any president or trustee for any oath or affidavit taken before them or either of them. Nothing herein shall be construed as preventing the trustees from disallowing any account or claim in whole or in part when so made out and verified, nor from requiring other or further evidence of the correctness or reasonableness thereof. Any person willfully swearing false in reference to any matter herein contained shall be guilty of perjury. Id., § 10, as amd., L. 1891, ch. 160.

74. ANNUAL FINANCIAL STATEMENT.—The trustees shall present to every annual meeting of electors of the village a detailed statement of expenditures for the past year, and of the estimated ordinary expenditures of such village, for the ensuing year, to meet which taxes may be lawfully raised, specifying each item of anticipated expense, which statement shall be signed by them and filed with the clerk. And the trustees shall cause to be published for two consecutive weeks immediately preceding

the annual election in a newspaper published in the village, and if none is published in the village, then in a newspaper published nearest such village, a full, accurate and detailed statement of all moneys received by said village or any of its officers, from whom and on what account, and also a full, accurate statement of all moneys laid out, paid out, to whom paid, and on what account, for and during the year; and also the estimated, ordinary expenditures of such village for the ensuing year, to meet which taxes may be lawfully raised, specifying each item of anticipated expense. The village clerk and village treasurer shall furnish to said trustees full and correct statements of all such matters. Id., § 11, as amd., L. 1891, ch. 160.

75. VILLAGE ACCOUNTS TO BE PUBLISHED EACH YEAR.—It shall be the duty of the board of trustees, of each of the incorporated villages of this State, to cause to be published once in each year and twenty days next before the annual meeting, in at least one public newspaper printed in such village or in a public newspaper that is, to all intents and purposes, a village newspaper of more than one village, and that has more than one publication office, one of which is in such incorporated village, a full and detailed account of all moneys received by them or the treasurer of said village for the account and use thereof, and of all money expended therefor, giving the items of expenditures in full. Should there be no paper published in said village, they shall be required to publish the same, by notice to the taxpayers, by posting in five public places in said incorporated limits. L. 1874, ch. 345, § 1, as amd., L. 1875, ch. 197.

76. SAME: TO INCLUDE DEBT.—Said annual report shall also state the funded and floating or temporary debt of said village. Id., § 2.

77. NAMING STREETS, ETC.—The trustees are empowered to give names to the roads, lanes, streets, avenues and public places in the village. L. 1870, ch. 291, T. 3, § 12.

78. WHEN TRUSTEES MAY ACT AS ASSESSORS; WHEN ASSESSORS MAY BE ELECTED.—The trustees, or a majority of them, shall act as assessors of the village, or may appoint of their number a committee for that purpose, except that whenever the resident population of the village shall exceed two thousand, then on the written request to such effect of at least one hundred voters qualified to vote on a proposition to raise a tax or appropriate the same, the board of trustees may, by resolution, direct that three assessors shall be elected at the then next annual village election to be had thereafter, and if such proceedings be had, then thereafter assessors shall be elective officers

of the village, and at such next annual village election three assessors shall be elected, one of whom shall be elected for and serve for the term of three years, one of whom shall be elected for and serve for the term of two years, and one of whom shall be elected for and serve for the term of one year, and at each annual village election thereafter one assessor shall be elected for and shall serve for the term of three years, and the trustees so acting as assessors, and in case where the assessors shall become elective officers under this act, then the assessors so elected shall have the power of town assessors and be subject to the laws applicable to the same, subject to the provisions of this act. When the assessors are elected* officers of the village, they shall be voted for on a separate ballot, and such ballots shall be deposited in a separate box. Any vacancy in the office of the village assessors shall be filled at the next annual village election after the happening thereof, and in the meantime and until such election shall be had by appointment by the board of trustees. It is further, provided, however, that in any village wherein no assessors are elected, the trustees, or a majority of them may annually, within twenty days after the annual village election, by an appointment in writing signed by them and filed with the clerk of the village, appoint a resident freeholder as assessor for the ensuing year. Such assessor so appointed shall take and file with the clerk, within ten days after his appointment, the usual oath of office as such assessor and officer, and when so appointed and qualified he shall act as such for the ensuing year within his village, and shall exclusively perform all the duties and possess and exercise all the powers possessed by or conferred by law upon the trustees when acting as assessors in making assessments and preparing, verifying and returning assessment-rolls, and he shall receive for his services the same compensation as a trustee when acting as or performing duties of an assessor. In case of any vacancy in the office of an assessor appointed as aforesaid, or his failure to serve, the trustees shall appoint another to serve the unexpired term in the same manner as they are authorized to make an original appointment. L. 1890, ch. 213.

79. NORMAL SCHOOL; POWERS OF LOCAL AUTHORITIES ON ACCEPTANCE OF PROPOSAL TO ESTABLISH.—If the proposals made by any board of supervisors or by the corporate authorities of any city or village shall be accepted, said board or corporate authorities shall have power to raise by tax and expend the money necessary to carry the same into effect, and if in their judgment it shall be deemed expedient, they shall

* So in original.

have power to borrow money for such purpose, for any time not exceeding ten years, and at a rate of interest not exceeding seven per cent, and issue the corporate bonds of said county, city or village therefor. L. 1866, ch. 466, § 2.

80. MASTER OF VESSEL TO REPORT ARRIVAL OF ALIEN PASSENGERS; NEGLECT, OR FALSE REPORT.—Within twenty-four hours after the arrival of any ship or vessel at any port of entry or landing-place in this State, situated northerly of the city of Albany, and including those upon the River St. Lawrence, Lake Ontario, the Niagara river and Lake Erie, from any of the United States, other than this State, or from any country out of the United States, the master or commander of any such ship or vessel shall make a report in writing, on oath or affirmation, to the president of the board of trustees of the village in which such port may be, or in case of his absence or other inability to serve, to either of the trustees of said village, or if such port be within the jurisdiction of an incorporated city, then such report shall be made to the mayor of such city, or in case of his absence, to one of the aldermen thereof, or if such port or landing be without the jurisdiction of any incorporated city or village, then such report shall be made to one of the overseers of the poor of the town in which such port or landing may be, which report shall state the name, place of birth, last legal residence, age and occupation of every person or passenger arriving in such ship or vessel on her last voyage to said port, not being a citizen of the United States, emigrating to the United States, or the territories thereof, and who shall not have executed the bond or paid the commutation money mentioned in the next section of this act. In case any such master or commander shall omit or neglect to report as aforesaid, or shall make any false report or statement in respect to any such person or passenger, in all or any of the particulars hereinbefore specified, such master or commander shall forfeit the sum of seventy-five dollars for every such person or passenger in regard to whom any such ommission or neglect shall have occurred, or any such false report or statement shall be made, for which the owner or owners of every ship or vessel shall also be liable, jointly and severally and which may be sued for or recovered as hereinafter provided. L. 1847, ch. 431, § 1, as amd., L. 1849, ch. 405; and L. 1851, ch. 116, § 1.

81. BOND AND DUTIES OF TREASURER.—The treasurer of each of such cities and villages shall within five days after his election to office, and before he shall perform any duties under this act, execute a bond, with two sureties, to the superintendents of the poor of the county in which such village or city is situated,

to be approved by the president of the board of trustees of such village, or by the mayor of such city, conditioned for the faithful performance of his duties under this act, and shall on or before the first Tuesday of the months of February, May, August and November in every year, report to and pay over to the superintendents of the poor of the county in which such city or village is situated, the amount of money received by him since his last previous report, for commutation as aforesaid. Id., § 3.

CHAPTER IV.

SEWERS AND SIDEWALKS.

82. APPLICATION OF THIS ACT.—The provisions of this act shall apply to any incorporated village in this State, whether such such village shall have been incorporated under a general law or by a special law, and the powers hereby conferred upon any such village are additional and supplementary to all other powers possessed by any such village under any general or special law, but all proceedings taken under this act shall be specified to be taken under the provisions of the general village sewer act of one thousand eight hundred and eighty-nine. L. 1889, ch. 375, § 1.

28 St. Rep., 391; 52 id., 606.

83. SEWER COMMISSIONERS, APPOINTMENT OF.—In any such village not having a board of sewer commissioners or any officers other than the board of village trustees authorized to perform the general duties of sewer commissioners, the president and board of trustees of such village may, by a concurring vote of at least two-thirds of their entire number, if more than five, and by a majority of the entire number if five or less, appoint five citizens of said village, who shall be residents and taxpayers thereof, to be sewer commissioners of said village. Such sewer commissioners shall be appointed for such terms of office respectively that the term of office of one such commissioner shall expire every year, and at the regular meeting of said board of trustees, next preceding the expiration of the term of office of any sewer commissioner so appointed, the successor of such commissioner shall be appointed in like manner for a term of five years. A vacancy occurring in the office of any sewer commissioner so appointed otherwise than by the expiration of term shall be filled in like manner for the balance of the unexpired term. Such appointment shall be so made that not more than three of such commissioners in office at any one time shall have been appointed from the members of the same political party. The sewer commissioners so appointed shall be officers of said village, and shall constitute

the board of sewer commissioners of such village, and shall receive no compensation for their services as such commissioners. The commissioners so appointed shall annually elect one of their number to be president, and a suitable person to be clerk of such board of sewer commissioners, who may be paid for his services a sum to be fixed by such board, not exceeding two hundred dollars per year, to be paid as other village expenses are paid. Said board may make by-laws for the conduct of their proceedings. Id., § 2, as amd., L. 1891, ch. 306.

84. MAP AND PLAN OF SEWERAGE SYSTEM.—In case a plan and map of a permanent system of sewerage for any such village shall not have been approved by the State board of health, the board of sewer commissioners of any such village, whether heretofore appointed or appointed under this act, shall, before taking any proceeding for the construction of any sewers under the provisions of this act, cause such a map and plan to be made of a permanent system of sewerage for such village, with such specifications of dimensions, connections and outlets or sewage disposal works, when necessary, as shall be approved by and filed with the State board of health; and for that purpose the board of sewer commissioners may employ a competent engineer and such other persons as said board of sewer commissioners may deem necessary, but the total expense thereof shall not exceed two thousand dollars, and the amount of such expenses shall be included in the next annual tax levy of such village as a part of the ordinary expenditures of the village, and shall be paid by the village treasurer upon the order of the board of sewer commissioners, signed by the president and countersigned by the clerk of such board. When such map and plan shall have been so completed and approved, a copy thereof shall be open to public inspection in said village, and notice thereof shall be published once a week for two weeks in two newspapers published in said village, or in one newspaper, if there be but one so published, or if there be no newspaper published in said village, then in a newspaper published in the place nearest to said village, in which a newspaper is published. Changes may be made in said map and plan of such system of sewers provided each change shall be first approved by and filed with the State board of health. The said board of sewer commissioners may agree or contract with the proper authorities of any other village or town, subject to the provisions of this act, jointly with such other village or town, to construct, maintain, operate or use outlets, disposal works and sewers. Id., § 3, as amd., L. 1891, ch. 316 and L. 1891, ch. 349.

85. SUBMISSION OF QUESTION AT SPECIAL ELECTION.—In case the board of sewer commissioners of any such village

shall at any time propose to construct the whole or any portion of such sewer system at the expense of the village at large, said board shall submit the question of the construction thereof, including the expense of constructing and maintaining sewage disposal works, to a special election as hereafter provided. Said board shall cause plans and specifications of such system or portion thereof proposed to be constructed and an estimate of the maximum and minimum cost thereof to be made, and to be open to public inspection. The said board may, by resolution, declare what proportion of the expense of such sewer system should be borne by the village at large, and what proportion of such expense ought to be borne by local assessment upon property specially benefited thereby, which proportions, respectively, shall be adjusted as equitably as may be with reference to the benefits to be conferred thereby upon the village at large and upon property specially benefited; and in such case the said board of sewer commissioners shall describe with reasonable certainty the area of territory within which such local assessments shall be made. Thereupon such board of sewer commissioners may, by resolution, declare their intention to construct the same, which resolution shall be published in the manner specified for the publication of the notice provided in the third section of this act, and which resolution shall specify the line of the sewers so proposed to be constructed, the estimated maximum and minimum expense thereof, and the proportion of said expense to be assessed upon the village at large, and the proportion of such expense to be paid by local assessments upon the property owners specially benefited, and a description of the area of such local assessment, and the place and time at which a special election shall be held in said village for the purpose of determining whether the same shall be constructed. Said special election shall be held at the time and place specified in said resolution so published, and shall be conducted in all respects as special elections for like purposes are required to be conducted by the charter of said village, if such village shall have been incorporated by a special act providing for the holding of such special elections, so far as such provisions are applicable; otherwise such special election, shall be conducted in all respects as special elections for passing upon questions of raising money for extraordinary expenditures are required to be conducted by chapter two hundred and ninety-one of the laws of eighteen hundred and seventy, so far as applicable, or in lieu of said special election as hereinbefore provided, whenever a petition shall be presented to the board of sewer commissioners of any village in this State, signed by the owners of at least sixty per centum in value of the assessable lands and buildings as

shown by the assessment-roll of said village, and requesting in said petition that the said board of sewer commissioners shall construct a sewerage system in said village at the expense of the village at large, then the said board of sewer commissioners shall cause at least ten days' notice to be given to the taxpayers of said village of a time and place where said board of sewer commissioners will meet and hear persons interested for and against the construction of said sewerage sysem; such notice shall be served by the publication thereof in a newspaper published in said village to be designated by said board of sewer commissioners, once in one week, at least ten days before the date of said meeting, and in case no newspaper is published in said village, then said notice shall be served by posting said notice in five public places in said village at least ten days before the date of such meeting. At said meeting said board of sewer commissioners shall take proof as to persons signing said petition for the construction of sewers, being the owners of a sufficient quantity of lands and buildings in said village as herein required, and after hearing such proofs that a petition for such system of sewerage has been signed by persons owning at least sixty per centum in assessed value of all lands and buildings in said village in which a sewerage system is petitioned for, their decision shall be final and conclusive as to such fact and question. If after hearing had in accordance with such notice, said board of sewer commissioners shall decide to construct said system of sewerage, the said board of sewer commissioners shall proceed to enter into contracts for the construction of said sewerage system in the manner prescribed by section six of this act, and to apportion and assess the expense thereof upon all the lands in the village at large in like manner and with like effect as herein provided in section seven of this act. Id., § 4, as amd., L. 1893, ch. 422.

86. PETITION FOR SEWER PAYABLE WHOLLY BY OWNERS.—Whenever a petition shall be presented to the board of sewer commissioners of any village signed by the owners of at least five hundred lineal feet of any of the lands fronting on any street, lane or alley through which a sewer is projected, on said plan of the sewerage system of such village for the construction thereof, to be paid for wholly by the owners of the lands specially benefited, then the said board of sewer commissioners shall cause at least ten days' notice to be given to the owners of lands fronting on such portion of said street, lane or alley of a time and place where said board of sewer commissioners will meet and hear persons interested for and against the construction of such portion of said sewer system. Such notice shall be served by the publication thereof in a newspaper of said village

to be designated by said board of sewer commissioners, once in one week at least ten days before such meeting, and in case no newspaper is published in said village by posting said notice in five public places in said village at least ten days before such meeting. At such hearing said board of sewer commissioners shall take proof as to the persons signing said petition being the owners of a sufficient quantity of lands fronting on said street as herein required, and their determination after hearing such proofs that a petition for such sewer has been signed by persons owning at least five hundred lineal feet of lands fronting on any street, lane or alley through which a sewer is projected, shall be final and conclusive as to such fact and question. If, after hearing had in accordance with such notice, the said board shall determine to construct such portion of said system of sewerage, the said board shall proceed to enter into contracts therefor in the manner prescribed by the sixth section of this act, and to apportion and assess the expense thereof upon the property specially benefited thereby in like manner and with like effect as herein provided in the seventh section of this act. In case it is desired to construct any sewer along any street, lane or alley, which is less than five hundred feet in length, a petition signed by the owners of one-half of the lands fronting on the line of said proposed sewer shall be sufficient for all the purposes of this act, and shall authorize the board of sewer commissioners to proceed and cause the same to be constructed as hereinbefore provided. In all cases where a petition is presented for the construction of a sewer through different streets, lanes or alleys, through which a sewer is projected on said plan of the sewerage system of such village, said sewer for all the purposes of this act shall be deemed as one sewer, and such different streets, lanes or alleys shall be deemed and considered as one continuous street, lane or alley. Id., § 8, as amd., L. 1891, ch. 316.

69 Hun, 95; 52 St. Rep., 606.

87. PROCEEDING UPON ADVERSE ELECTION.—In case a majority of the votes cast at such special election shall be against such resolution, then no other shall be called by such board of sewer commissioners during the same fiscal year. L. 1889, ch. 375, § 5.

88. PROCEEDINGS UPON FAVORABLE ELECTION.—In case a majority of the votes cast at any such special election shall be in favor of such resolution, then the said board of sewer commissioners shall advertise for proposals for constructing such portion of said system of sewerage and for furnishing materials for the same, either under entire contract, or in parts or in sections, under special contracts, as they shall deem for the best interests of the village, in the manner specified in the third

section hereof for the publication of the notice therein provided, and in such other newspapers as said board of sewer commissioners shall deem advisable. The said board of sewer commissioners may require a bond or deposit to be made by each party submitting such proposals as a guarantee of the good faith thereof, such deposit to be forfeited to the village, or the liability upon each bond to accrue in case the party submitting such proposals shall refuse to enter into a contract in accordance therewith, in case such proposals shall be accepted. Said board of sewer commissioners shall have the power when for any reason they shall deem it advantageous to the interests of such village to reject all proposals and bids made to them, and may contract with other than the lowest bidder for such material and work or any part thereof, and may, whenever they deem necessary, readvertise for the same. Said board of sewer commissioners shall require any party that shall contract for doing said work or furnishing the said materials, or any part thereof, to give sufficient security to be approved by them for the faithful performance of such contract or contracts, or to indemnify and save harmless said village and the said board of sewer commissioners from any damage or loss for which it or they may become liable by reason of any negligence or carelessness on the part of said contractor, his assigns, agents, servants or employes, or for improperly grading any and all excavations, trenches, accumulations or obstructions caused by or made in the course of the construction of the portion of the sewers covered by said contract or contracts, or from neglecting or refusing to properly restore the surface of any highway, street, alley, lane or place through which such sewers or drains shall have been laid, and to restore to a proper and safe condition; but no contract shall be entered into for the construction of such portion of said sewers specified in said resolution by which a greater amount shall be agreed to be paid therefor than the maximum sum in such resolution specified. Id., § 6.

89. APPORTIONMENT AND ASSESSMENT OF EXPENSES.—The proportion of the expenses of constructing such sewer specified in said resolution so published as aforesaid to be assessed upon the land specially benefited thereby shall be apportioned and assessed upon the owner or owners of lands within the area of local assessment, as aforesaid, in proportion as nearly as may be to the benefit and advantages which each will receive thereby, and such apportionment and assessment shall be binding upon such owner or owners, and shall be a lien upon such lands, to be collected in the same manner as other village taxes and assessments are collected, but no such apportionment and assessment shall be made without at least six

days' notice of the time and place of such apportionment and assessment to each of such land-owners, whose residence is known, which notice shall be served personally by delivering a written copy thereof to each of such persons who can with reasonable diligence be found in said village, or otherwise by mail addressed to the last known post-office address of such person. After the assessment and apportionment hereinbefore provided for shall be completed, the same or a copy thereof shall be left with the village clerk, and there remain for a period of ten days. The said board of sewer commissioners shall, after they have delivered such apportionment and assessment to said village clerk aforesaid, give public notice by posting the same in at least three of the most public places in such village, stating that such assessment and apportionment have been made and completed, and the officers to whom the same shall have been delivered, and the place where the same will be open to public inspection for ten days thereafter. Any person who may feel aggrieved by said apportionment and assessment may, before said ten days notice shall expire, appeal therefrom to the county judge of the county in which such village is situated, by serving at least ten days' notice of such appeal, on the president or clerk of the board of sewer commissioners, and the said county judge shall thereupon appoint three disinterested freeholders of said village, not residents of such area of local assessment, as commissioners to review such apportionment and assessment, who shall examine the same and all the lots and real estate upon which the same is made, and fix and determine the assessment thereon, and their determination shall be final and conclusive. The fees of the commissioners so appointed by the county judge, not exceeding five dollars per day, shall be paid as an ordinary village expenditure in case their determination shall be more favorable to the appellant, in a sum not less than twenty dollars than the assessment made by the board of sewer commissioners, otherwise the expense of such commissioners shall be paid by such appellant. Id., § 7.

90. SEWER COMMISSIONERS TO ACQUIRE TITLE TO PROPERTY.—The board of sewer commissioners of any such village may acquire title to any property necessary to construct such portion of the sewerage system of such village as they shall be authorized to construct under this act, in the manner provided by subdivision twenty-nine of section three * of title three of chapter two hundred and ninety-one of the laws of one thousand eight hundred and seventy, and said board of sewer commissioners shall have all the powers conferred upon the president and trustees of a village by said subdivision. Id., § 9.

* This subject, § 84.

91. SEWER COMMISSIONERS MAY ISSUE BONDS, ETC.—For the providing of funds for the payment of the expenses authorized by this act, and for the construction and completion of such system of sewerage in any village, the board of sewer commissioners thereof is hereby authorized and empowered to issue its certificates of indebtedness, or bonds from time to time, and to pledge the faith and credit of said village for the payment of work, material furnished, lands taken and other expenses of said work, bearing interest not exceeding five per cent per annum on all bonds running over one year, in such amount and upon such time as may be determined by said board. Such bonds shall be signed by the president and countersigned by the clerk of said board of such village, and shall be made payable at such times as said board of sewer commissioners shall deem best, not exceeding twenty years from the date of the issue thereof, but the same shall not be sold for less than the par value thereof, and shall be numbered consecutively as issued, and a record of the number, amount, rate of interest and time when payable shall be kept by the clerk of the board of sewer commissioners, who shall furnish a copy of such record to the clerk of said village, who shall also keep a record thereof. The said bonds shall, before sale or negotiation thereof, be delivered to the treasurer of said village, who shall have charge of the sale and negotiation thereof, and the proceeds of such sale and of all moneys raised by taxation for sewer purposes shall be credited to a separate fund called the sewer fund of said village. All expenditures authorized to be made by the board of sewer commissioners of any village by virtue of this act shall be paid by the treasurer of said village upon the order of the board of sewer commisssioners, signed by the president and countersigned by the clerk thereof. Id., § 10.

92. CERTAIN OFFICERS TO EXERCISE POWERS OF SEWER COMMISSIONERS. In case in any such village there shall already exist a board of officers or officers other than the trustees of such village having general charge of the construction and maintenance of the sewers thereof, such board shall have all powers conferred by this act upon the board of sewer commissioners by this act provided. Id., § 11.

93. BOARD TO HAVE CHARGE OF SEWERS, ETC.; ANNUAL REPORTS. The board of sewer commissioners of any such village shall have charge of the maintenance and repairs of the sewers and works connected therewith of such village. Said board shall annually report to the board of trustees at the last regular meeting of the board of trustees, in each fiscal year, the estimated amount necessary for the maintenance and repairs of the sewers of said village for the next succeeding year, which amount shall be included in the annual tax levy

for the next succeeding year. The expenses of such maintenance and repairs shall be paid by the treasurer of the village, upon the order of the board of sewer commissioners, signed by the clerk and countersigned by the president, not exceeding the amount so estimated in any one year. Id., § 12.

94. BOARD MAY EMPLOY ENGINEER AND INSPECTORS.—The board of sewer commissioners of any such village shall have authority to employ a supervising engineer to superintend and inspect the construction of any sewers or works connected therewith authorized to be constructed by this act, and to pay him a compensation not exceeding ten dollars per day, and such other inspectors as may be necessary and to pay them a compensation not to exceed two and one-half dollars per day each, which shall be included in their estimate of the expenses of the construction of the same, and shall be paid as a portion thereof. Id., § 13.

94. BOARD MAY EMPLOY ENGINEER AND INSPEC-—If the board of sewer commissioners of a village, in which a sewer or portion of a sewer system shall have been constructed or hereafter may be constructed under this act, when a petition was duly signed and presented to them as required by the provisions of this act shall have failed or neglected through inadvertence or mistake, to have given any notice by this act required, such board may, at any time within one year, after the completion of such sewer or such portion of a sewer system, reassess and apportion the cost and expenses of constructing such sewer upon the lands especially benefited thereby by causing a notice to be served upon the owners of said lands, stating the cost of such sewer and a time and place within such village where said board of sewer commissioners will meet for the purpose of reassessing and reapportioning the cost of such sewer upon all the lands benefited thereby in proportion as nearly as may be, to the benefit and advantages which each owner shall receive thereby, which notice shall be served by the publication thereof once in each week, for two successive weeks, in at least one newspaper published in said village and by posting said notice in at least five public places in said village, and in case no newspaper is published in said village, the same shall be served by posting said notice in at least ten public places in said village at least ten days before the said meeting of such board of sewer commissioners. Said board of sewer commissioners shall meet at the time and place mentioned in said notice and at such other time and times to which they may adjourn and shall proceed to reassess and reapportion the cost and expenses of constructing said sewer upon the lands

specially benefited thereby and upon the owner or owner* of such lands in proportion as nearly as may be to the benefits and advantages which each shall receive thereby. After such reassessment and reapportionment shall be completed, the same or a copy thereof shall be left with the village clerk and there remain for the period of ten days, and the said board of sewer commissioners, after they have delivered such reassessment and reapportionment to said village clerk as aforesaid, shall give public notice by posting the same in three public places in said village, stating that such reassessment and reapportionment have been made and completed, the officer to whom the same has been delivered and the place where the same will be open to public inspection for ten days thereafter. Any person who may feel aggrieved by such reassessment and reapportionment may, before said ten days' notice shall expire, appeal therefrom to the county judge of the county in which such village is situated, by serving the notice of appeal in the manner as provided by section seven of this act, and such appeal shall be determined in the manner provided by said section seven of this act, and all the provisions as to appeals from the first assessment as provided by section seven of this act, are hereby made applicable to appeals from the reassessment and reapportionment of said costs and expense of such sewer and shall be determined in the same manner and with the same force and effect. From and after the expiration of the time limited in which to appeal from such reassessment and reapportionment, in case, no appeal is taken; and if an appeal is taken from and after the determination of the same, such reapportionment, reassessment and tax so reassessed shall be binding upon such owner or owners of said lands, and shall be a lien upon such lands to be enforced and collected in the same manner as other village taxes are collected.

This act shall take effect immediately. Id., § 14, as amd., L. 1891, ch. 316.

96. SEWERS ALREADY CONSTRUCTED MAY BE MADE PART OF SYSTEM.—In case a map and plan of a permanent system of sewerage shall have been made, or may hereafter be made, under the provisions of this act, in any incorporated village, which said map and plan embraces in whole or in part any sewer or sewers theretofore constructed in said village, and said sewer or sewers or portions thereof so embraced in said map or plan shall be proper and sufficient in capacity and construction to become a part of such proposed system of sewerage, the same may be made a part of said sewerage system. And when it shall be

* So in the original.

proposed as hereinbefore provided to construct the whole sewer system of any village at the expense of the village at large, it shall be lawful, and it shall be the duty of the board of sewer commissioners to include in the estimated expense of such sewer system provided for in section four of this act, the portion of the cost which has been raised by special tax on the property specially benefited thereby; First, of any sewer, sewers or portion of sewers, so taken and made a part of such sewerage system or, second, of any sewer, sewers or portion of sewers which may theretofore have been built in accordance with the provisions of this act. And in case it is determined to construct the whole of said sewerage system at the expense of the village at large, the board of sewer commissioners may issue its certificates of indebtedness or bonds for the payment of the amounts so paid by special tax in the same manner as for the payment of the expense of constructing the other portions of such sewer system. The moneys realized from the sale of such bonds, to the amount of the cost of such sewer, or sewers or portion of sewers already constructed, shall be repaid to the owners of the property upon which the said tax was assessed and levied, in the various sums and amounts originally levied upon said property. Application for the repayment of such moneys shall be made to the board of sewer commissioners in any such village, and repayment thereof shall be made in the same manner as other expenditures by virtue of this act are authorized to be made. The board of sewer commissioners of any village which has by vote, taken as prescribed herein, determined to construct such entire system of sewerage at the expense of the village at large is hereby authorized to make repayment to the owners of property heretofore assessed for any sewer, sewers or portion of sewers incorporated into a map or plan already made in the same manner, as is hereinbefore provided. § 15, added by L. 1892, ch. 564.

97. ACTIONS BY MUNICIPALITIES TO PREVENT DISCHARGE OF SEWERAGE INTO WATERS.—Any incorporated city or village in the State of New York, which has made such provision for the disposal of its sewage as not to pollute or contaminate therewith any river, stream, lake, or other body of water, may have and maintain an action in the Supreme Court to prevent the discharge of any sewage or substance deleterious to health, or which shall injure the potable qualities of the water in any river, stream, lake, or other body of water, from which such incorporated city or village shall take or receive its water supply, provided, that such river, stream, lake, or other body of water is wholly, or in part, within the boundaries of the county in which such plaintiff is located. L. 1892, ch. 236, § 1.

98. DUTY OF SUPREME COURT.—Whenever such action shall be brought under the provisions of this act, it shall be the duty of the Supreme Court upon proof of the existence of facts justifying the bringing and maintenance of such action under the provisions of this act to render a judgment in which shall be incorporated a mandatory injunction requiring the person, body, board, corporation, municipality, village, county or town, being a defendant to said action which directly or indirectly, or by its servants, agents, or officers shall discharge or dispose of its sewage or any other substance deleterious to health; which shall injure the potable qualities of the water in such wise as that the same shall enter into any river, stream, lake, or other body of water, from which such plaintiff shall take or receive its water supply, within such reasonable time as may be prescribed by the court, to take such action as shall prevent such discharge or the disposal of such sewage, or other substance into such waters, or the pollution thereof with such further directions in the premises as may be proper and desirable to effect such purpose, provided, that such river, stream, lake or other body of water is wholly, or in part, within the boundaries of the county in which such plaintiff is located. Id., § 2.

99. EXAMINATION BY STATE BOARD OF HEALTH.—But no such action shall be brought as provided for in section two of this act until the State Board of Health has examined and determined whether the sewage does pollute or contaminate the river, stream, lake or other body of water into which said sewage is discharged. The expense of such examination by said board shall be a charge upon and paid by the municipality in whose interest, and on whose behalf such examination is made. Id., § 3.

100. APPROVAL OF PLANS FOR REMOVAL OF SEWAGE, ETC.—In case the State Board of Health shall find upon examination that the discharge of said sewage does pollute or contaminate said waters or any of them in such manner as to be of menace or danger to the health of those using said waters, the plans for the removal or disposal of the sewage ordered to be prepared by the court as provided in section two shall be submitted to the State Board of Health for its approval. Id., § 4.

101. TRUSTEES MAY COMPEL REPAIRS OF SIDEWALKS.—The trustees shall have power to compel the owners and occupants of land or lots in front of and adjoining which a sidewalk is to be made or repaired, to make such improvements upon the sidewalk in front of said land or lot, to determine and prescribe the manner of doing the same, and the materials to be used therein, and the quality or kind of such materials; and in

case the owner or owners, occupant or occupants of any such land or lot shall neglect or refuse to complete the said required improvement within such reasonable time as shall be required by the trustees, the said trustees may cause such improvement to be made or completed, and the expense thereof may be by them assessed on such owner or owners so neglecting or refusing, and be collected by warrant issued by the president and trustees, as other taxes are directed to be collected by this act; and in case such tax or assessment shall not be paid or collected, the trustees may cause such real estate to be leased, or the owner thereof to be sued for payment and collection of such tax, and the costs and expenses arising from non-payment, in the manner and with the effect and subject to the provisions of this act in regard to the collection of taxes and assessments, by leasing of real estate or by action at law against the person liable. But nothing in this section shall be so construed as to prevent the trustees from making expenditures of money raised under section six* of title four of this act, in and toward the construction, alteration or repair of sidewalks in such village, whenever and wherever they may deem the same more for the benefit of all the inhabitants of such village than for such adjoining owners or occupants; provided that such last-mentioned expenditures for sidewalks shall not exceed in any one year the sum of five hundred dollars, unless the taxpayers of such village, at a meeting specially called for that purpose, upon ten days' notice, at which at least thirty taxpayers shall be present, shall authorize, by resolution, a larger expenditure. The resolution adopted at such meeting, duly authenticated, shall be placed with the records of such village, entered on the minutes of the trustees. L. 1870, ch. 291, T. 3, § 4, as amd., L. 1880, ch. 422, § 1.

98 N. Y. 496, 501; 100 id., 89; 137 id., 364; 6 N. Y. St. R. 119, 50 id., 799; 25 W. D. 401, 32 Barb. 634; Cooley's Const. Lim. (6th ed.), 303. See, also, § 104, post.

102. BRIDGES.—Trustees of a village have also power to construct, maintain and repair bridges within the village limits. See ch. XIV. postea.

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* See post, § 163.

CHAPTER V.

FIRE DEPARTMENTS IN INCORPORATED AND UNINCORPORATED VILLAGES.

103. TRUSTEES MAY ORGANIZE FIRE DEPARTMENT, ETC.—The trustees are authorized and empowered to organize a fire department and provide for the government and discipline of the same, to consist of one or more engine companies, one or more hook and ladder companies, and one or more hose companies, and one or more protective companies; to appoint a sufficient number of suitable persons as members, not exceeding sixty to each engine company, and not exceeding forty-five to each hook and ladder company, and not exceeding thirty to each hose company and protective company, with the consent of the persons appointed; a foreman and assistant foreman for each company shall be chosen by the members of each company in the manner to be directed by the trustees, and subject to their approval and ratification. L. 1870, ch. 291, T. 3, § 5, as amd., L. 1880, ch. 144, § 1, and L. 1886, ch. 600.

104. SAME; EXEMPTION OF FIREMEN.—Every member of the fire department, while such member, shall be exempt from serving in the militia, except in cases of war, invasion and insurrection, and every person who shall serve in such fire department five successive years shall thereafter be entitled to the like exemption from military service; and a certificate of such service, authenticated by the president of the village and the corporate seal, shall be presumptive evidence before all courts and officers, civil and military, of such exemption. Id., § 6.

105. SAME; RESOLUTION TO BE ENTERED AND FILED.—The board of trustees of any village in this State incorporated under a special charter, or under or in pursuance of any general statute, shall have power and are hereby authorized to organize fire, hook and ladder, hose and protective companies and a fire department in their respective villages (if none such exist therein by special act) whenever in their judgment the public interests require ; and to that end, may, by resolution to be entered on their minutes, and a duly authenticated copy thereof filed in the office of the clerk of the county where such village is situated, authorize the formation of as many fire, hook and ladder, hose and protective companies as they may deem necessary, not exceeding, however, one of each for each one thousand of population therein. Protective companies, shall be deemed to be engine

companies, within the meaning and for the purposes of this act. L. 1887, ch. 244, § 1, as amd., L. 1888, ch. 342, § 2.

106. FIRE COMPANIES TO BE CORPORATIONS; PROCESS.—All persons who now are or hereafter shall become members of hose, hook and ladder or engine companies, not exceeding twenty-five members to each hose company and forty members to each hook and ladder or engine company of any such village incorporated as aforesaid who after being duly elected by their respective companies and confirmed by the board of trustees of such village, shall be and hereby are ordained, constituted and declared to be a body corporate and politic in fact and in name, by the name and style of the "fire department of —" (such village) and by that name they and their successors shall and may have perpetual succession and shall be persons in law capable of suing and being sued in all courts and in all actions within the jurisdiction of the State of New York, and that they and their successors may have a common seal and may change and alter the same at their pleasure, and also that they and their successors by the name of the Fire Department of— (such village) shall be in law capable of purchasing, holding and conveying any estate, real or personal, for the use of said corporation, provided the amount of real and personal estate so held shall not exceed at any time the sum of twenty thousand dollars. Id., § 2.

107. ELECTION OF DELEGATES AT REGULAR MEETING TO CHOOSE CHIEF ENGINEER AND ASSISTANATS.—The several hose, hook and ladder and engine companies constituting this* corporation, shall at their regular meeting to be held on the first Tuesday in April in each year, elect by ballots three delegates from each of their respective companies to meet in convention at the council room of the department, on the Thursday following at two o'clock in the afternoon, and after choosing one of this * number as chairman, and another as secretary, shall select separately by ballots suitable persons, electors of such village for chief engineer and first and second assistant engineers, and the individuals receiving the greatest number of votes for those several offices shall be recommended to the board of trustees of said village for their appointment. Id., § 3.

108. APPOINTMENT BY TRUSTEES.—The board of trustees of such village upon such recommendations shall appoint a chief engineer and two assistant engineers, who shall be electors of said village and who shall hold their offices during the pleasure of said board. Id., § 4.

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* So in the original.

109. DUTIES AND POWERS OF CHIEF ENGINEER.—The chief engineer shall preside over all meetings of the council and of the department, both regular and special; shall have exclusive control of the entire department at all fires, inspections and reviews; shall have charge of the hose or engine-houses and all apparatus intrusted to the care of or belonging to the department; shall have authority over all employes of the department; shall hold them strictly to account for neglect of duty, and may suspend or discharge the same at any time, subject to the approval of two-thirds of the council, at the next meeting; shall issue through the secretary, upon application, a certificate of the time of service of any member of the department, provided such time shall have been granted by the council; and shall give to the officers of the council, immediately after their election, at the annual meeting of the council or at any special election, a certified warrant of their election, countersigned by the secretary. Id., § 5.

110. ELECTION OF WARDENS; COUNCIL.—The different hose, hook and ladder and engine companies shall, at their regular meeting, to be held on the first Tuesday in April of each year, elect by ballot two of their number, to be known and designated as wardens, who are electors of such village who, with the chief engineer as president, and his assistants as vice-presidents, shall constitute a "council," and shall exercise such powers as are hereinafter committed to them; which appointment shall not exempt them from their other duties as firemen. Id., § 6.

111. MEETING AND OFFICERS OF COUNCIL; VACANCIES.—The said council shall meet on the third Tuesday in April of each year and choose out of their own body a secretary, treasurer and collector, to hold their respective offices until others are appointed in their stead, agreeably to the provisions of this act; and in the case of any vacancy in the office of warden, such vacancy shall be filled by the company in which it occurs, at a special election held for that purpose; and in case of a vacancy occurring in the office of secretary, treasurer or collector, such vacancy shall be filled by the council at the next meeting. Id., 7, as amd., L. 1894, ch. 161.

112. POWERS OF COUNCIL; QUORUM.—Two-thirds of the said council shall constitute a quorum, and shall have full power to make and prescribe such laws, ordinances and regulations not inconsistent with the laws of this State, or ordinances of such village as shall be by them deemed necessary for the proper management of the affairs, and the disposition of the funds of the said corporation; and shall have power to appoint all meetings, both regular and special (except the one hereinafter provided for)

and shall also designate one or more days in each and every year as days of public exercise, inspection and review, and all such other matters as appertain to the business and purposes for which the said corporation is by this act instituted, and no other. Id., § 8.

113. SPECIAL ELECTIONS.—And in case any election shall not be held on the day when pursuant to this act it ought to have been held, the said corporation shall not on that account be deemed dissolved, but it may be lawful to hold such election on any subsequent day agreeable to the ordinances and regulations of said corporation. Id., § 9.

114. ANNUAL MEETINGS OF FIRE COMPANIES.—The firemen constituting the several hose, hook and ladder and engine companies of this* corporation, shall hold a general meeting at the council room, or such other place as the council may direct, on the first Friday following the first Tuesday in April of each and every year, at seven o'clock in the afternoon, to hear the report of the secretary and treasurer, and to transact such other business as may be deemed for the interest of this* corporation. Id., § 10.

115. REMOVAL OF MEMBERS FROM VILLAGE; CERTIFICATE OF SERVICE.—The members of such fire department, in case of removal from such village and becoming members of a fire department of any other village or city within this State, shall be allowed the time they have served as firemen in such village, in the village or city to which they have removed, upon producing a certificate of such service, signed by the chief engineer and secretary and bearing the seal of such corporation hereby authorized and when such fireman shall have served for so long a time thereafter as shall make his whole term of service the same as required by the statute laws of this State, he shall be entitled to all the privileges and exemptions secured to firemen in this State for such services. Id., § 11.

116. CERTIFICATE EVIDENCE.—A certificate signed by the chief engineer and secretary and bearing the seal of this* corporation, declaring the term of service of said members to have been fully completed, as required by the laws of this State, shall be sufficient evidence to entitle him* to all the privileges and exemptions provided for by law. Id., § 12.

117. ORGANIZATION OF FIRE, ETC., COMPANIES IN UNINCORPORATED VILLAGES.—Any ten or more persons, residents of any unincorporated village of this State who shall desire to associate themselves together in a corporate capacity as

* So in original.

a fire, hose, or hook and ladder company, or as a department consisting of two or more of such companies, may make, sign and acknowledge, before any officer authorized to take the acknowledgment of deeds in this State, and file in the office of the Secretary of State, and also in the office of the clerk of the county in which the office of the proposed company shall be situate, a certificate in writing in which shall be stated the name or title by which said company shall be known in law, the particular business and object of said incorporation, the name of the unincorporated village in which said company or department proposes to act, and the name of the county in which said village is situated, the number of trustees, directors or managers to manage the same, and the names of the trustees, directors or managers for the first year of its existence and the number of years said company or department shall exist, not to exceed fifty years, but such certificate shall not be filed unless there shall be annexed thereto a copy of a resolution of the board of the town officers of the town in which said village is situated, consenting to such incorporation and certified by the clerk of said town to be a true copy thereof; provided that such corporation shall engage in, or conduct only such business as properly belongs to fire, hose, or hook and ladder companies, and only in the village or town named in the aforesaid certificate. L. 1887, ch. 315, § 1.

118. SAME; RIGHTS, DUTIES AND POWERS.—Upon filing a certificate as aforesaid, together with such certified copy of the resolution of approval, the persons who shall have signed and acknowledged such certificate, and their associates and successors, shall, by virtue of this act be a body politic and corporate by the name stated in such certificate, and by that name they and their successors shall and may have succession, and shall be capable in law of suing and being sued ; and they and their successors, by their corporate name, shall, in law, be capable of taking, receiving, purchasing and holding real estate for the purposes of their incorporation, and for no other purpose to an amount not exceeding the sum of thirty thousand dollars in value, and personal estate for like purposes to an amount not exceeding the sum of fifty thousand dollars in value ; to make by-laws for the management of its affairs not inconsistent with the constitution and laws of this State or of the United States ; to elect and appoint the officers and agents of such corporation for the management of its business, and to allow them a suitable compensation, and to prescribe the qualifications of membership of said company or corporation. Id., § 2.

119. ELECTION OF TRUSTEES; VACANCIES.—The company or department so incorporated may annually elect from its members its trustees, directors or managers, at such time and

place, and in such manner as may be specified in its by-laws, who shall have the control and management of the affairs and funds of said company or department and a majority of whom shall be a quorum for the transaction of business. Whenever any vacancy shall happen among said trustees, directors or managers, by death, resignation or neglect to serve, such vacancy shall be filled in the manner provided in the by-laws of said company or department. Id., § 3.

120. ELECTION, WHEN NOT MADE ON DAY DESIGNATED.— In case it shall at any time happen that an election of trustees, directors or managers shall not be made on the day designated by the by-laws, said company or department shall not for that cause be dissolved, but it shall and may be lawful on any other day to hold an election for trustees, directors or managers, in such manner as said company or department may determine. Id., § 4.

121. MAY RECEIVE PROPERTY BY WILL; PROVISO.— Any corporation formed under this act may take, receive or hold any property, real or personal, by virtue of any devise or bequest contained in any last will and testament, but not to increase the value of its property in excess of the amount fixed by section two of this act; provided that no person, leaving a wife, child or parent shall devise or bequeath to such corporation more than one-fourth of his or her estate, after payment of all debts existing against said estate, and such devise or bequest shall be valid to the extent of such one-fourth only. Id., § 5.

122. LIABILITY OF TRUSTEES FOR DEBTS.— The trustees, directors or managers of any corporation organized under the provisions of this act shall be jointly and severally liable for all debts due from said corporation, contracted while they are such trustees, directors or managers; provided said debts are payable within one year from the time they shall have been contracted; and provided further, that a suit for the collection of the same shall be brought within one year after the debt shall become due and payable. Id., § 6.

123. ANNUAL REPORT.—It shall be the duty of the trustees, directors or managers of all corporations formed under this act, or a majority of them, on or before the fifteenth day of January in each year, to make and file in the county clerk's office, where the certificate of incorporation is filed, a certificate under their hands, stating, the names of the trustees, directors or managers and officers of such corporation, with an inventory of the property and effects and liabilities thereof, with an affidavit of said trustees, directors or managers, or a majority of them, of the truth of such certificate and inventory; and also a like affidavit that such cor-

poration has not been engaged, directly or indirectly, in any other business than such as is set forth in the certificate of incorporation. Id., § 7.

124. GENERAL POWERS OF CORPORATION.— Every corporation formed under this act shall possess the general powers conferred by and be subject to the provisions and restrictions of the third title of the eighteenth chapter of the first part of the Revised Statutes; and every active foreman** who shall be a member of any department or company organized under the provisions of this act shall be entitled to such exemptions as are now provided by chapter two hundred and ninety-one of the laws of eighteen hundred and seventy, entitled "An act for the incorporation of villages," and the acts amendatory thereof. Id., § 8.

125. DUTIES OF CHIEF ENGINEER AND ASSISTANT ENGINEERS.— The chief engineer of the fire department, and, in his absence, the senior assistant engineer, shall have the direction and control of the department, subject to such regulations as shall be prescribed by the trustees. L. 1870, ch. 291, T. 3, § 7.

126. TAX ON FOREIGN COMPANIES FOR BENEFIT OF FIRE DEPARTMENT.— There shall be paid to the treasurer of the fire department of every city or village of this State, whether incorporated or unincorporated, having a fire department company or organization for the use and benefit of such fire department, and when no treasurer of a fire department exists, then to the treasurer or other financial officer of such city or village, who, for the purpose of this act shall have the same powers as the treasurers of fire departments, on the first day of February of each year, by every person who shall act as agent for or on behalf of any individual or association of individuals, or corporation not incorporated by or under the laws of this State, whose business is insuring against loss or injury by fire upon property in this State, although such individual, association or corporation may be incorporated for that purpose by any other State or country, the sum of two dollars upon the hundred dollars, and at that rate upon the amount of all premiums which during the year, or part of a year, ending on the last preceding thirty-first day of December shall have been received by such agent or person or received by any other person for him, for any insurance effected or procured by him as such agent or broker against loss or injury by fire, upon property situate within the corporate limits of such city or village. L. 1875, ch. 465, § 1, as amd., L. 1876, ch. 359, § 1, and L. 1886, ch. 604, § 1.

127. EXEMPTION FROM JURY AND MILITIA DUTY.— Every person who on the first day of May next shall have been a

** So in original.

fireman in any of the cities or villages of this State, for the term of four, five or six years, and who shall serve as such one year thereafter; and every person who on the first day of May next shall have been such fireman for a less period of time than four years, and who shall serve as such for so long a time thereafter as shall make the whole term of his service five years, and every person who may become such fireman after the passage of this act and shall serve as such for five years thereafter, shall during and forever after such service be exempting from serving as a juror in any of the courts of this State, and from all militia duty except in cases of insurrection or invasion. L. 1848, ch. 188, § 1.

CHAPTER VI.

PUBLIC HEALTH.

128. POWERS OF VILLAGE TRUSTEES.—The trustees may, and it shall be their duty to, take precautionary measures to guard the public health in times of infectious and pestilential diseases, and to provide against them when they appear in the village, by providing places for the removal of persons having such diseases, from the populous parts of the village, and to pay the expenses incident to such removal, and they shall have the power to remove such persons; and they shall have power to appoint one or more health commissioners, who, with the president, shall constitute a board of health of the village; and such board of health shall possess the powers conferred by, and be subject to the provisions of, the act, of the legislature of the State of New York, entitled "An act for the preservation of the public health," passed April tenth, eighteen hundred and fifty and acts amendatory thereof, in addition to the powers which may be given under this act. L. 1870, ch. 291, Tit. 3, § 8.

129. LOCATIONS OF HOSPITALS AND PEST HOUSES IN VILLAGES.—No building or tent located within the limits of any village incorporated under chapter two hundred and ninety-one of the laws of eighteen hundred and seventy, entitled, "An act for the incorporation of villages," shall be used, occupied or maintained as a hospital or pest house for the reception and care of public or private patients, without the consent of the board of health of any such village. L. 1893, ch. 447.

130. FREE PUBLIC BATHS.—It shall be lawful for any city, village or town to establish free public baths. Any city, village or town may loan its credit or make appropriations of its funds for the purpose of establishing free public baths. L. 1892, ch. 473.

131. LOCAL BOARDS OF HEALTH.—There shall continue to be local boards of health and health officers in the several cities, villages and towns of the State. In the cities except New York, Brooklyn, Buffalo, Albany and Yonkers, the board shall consist of the mayor of the city who shall be its president, and at least six other persons, one of whom shall be a competent physician, who shall be appointed by the common council, upon the nomination of the mayor, and shall hold office for three years. Appointments of members of such boards shall be made for such shorter terms as at any time may be necessary, in order that the terms of two appointed members shall expire annually. The board shall appoint a competent physician, not one of its members, to be the health officer of the city. In villages the board shall consist of not less than three nor more than seven persons, not trustees of the village, who shall be appointed by such trustees annually and hold office for one year. Every such village board shall elect a president and appoint a competent physician, not a member of the board, to be the health officer of the village. In towns the board of health shall consist of the town board and another citizen of the town of full age, annually appointed by the town board at a meeting to be held by it within thirty days after the annual town meeting. Such board of health shall annually appoint a competent physician, resident of the town, to be the health officer of the town. If the proper authorities shall not fill any vacancies occurring in any local board within thirty days after the happening of such vacancy the county judge of the county shall appoint a competent person to fill the vacancy for the unexpired term, which appointment shall be immediately filed in the office of the county clerk. Notice of the membership and organization of every local board of health shall be forthwith given by such board to the State Board of Health. The term "municipality," when used in this article, means the city, village or town for which any such local board may be or is appointed. L. 1893, ch. 661, Art. 2, § 20.

132. GENERAL POWERS AND DUTIES OF LOCAL BOARDS OF HEALTH.—Every such local board of health shall meet at stated intervals to be fixed by it, in the municipality. The presiding officer of every such board may call special meetings thereof when in his judgment the protection of the public health of the municipality requires it, and he shall call such meeting upon the petition of at least twenty-five residents thereof, of full age, setting forth the necessity of such meeting. Every such local board shall prescribe the duties and powers of the local health officer, who shall be its chief executive officer, and direct him in the performance of his duties, and fix his compensa-

tion. Every such local board shall make and publish from time to time all such orders and regulations as they may deem necessary and proper for the preservation of life and health, and the execution and enforcement of the public health law in the municipality. It shall make, without publication thereof, such orders and regulations for the suppression of nuisances, and concerning all other matters in their judgment detrimental to the public health in special or individual cases, not of general application, and serve copies thereof upon the owner or occupant of any premises whereon such nuisances or other matters may exist or post the same in some conspicuous place thereon. It may employ such persons as shall be necessary to enable it to carry into effect its orders and regulations and fix their compensation. It may issue subpoenas, compel the attendance of witnesses, administer oaths to witnesses and compel them to testify and for such purposes it shall have the same powers as a justice of the peace of the State in a civil action of which he has jurisdiction. It may designate by resolution one of its members to sign and issue such subpoenas. No subpoena shall be served outside the jurisdiction of the board issuing it, and no witness shall be interrogated or compelled to testify upon matters not related to the public health. It may issue warrants to any constable or policeman of the municipality to apprehend and remove such persons as cannot otherwise be subjected to its orders or regulations, and a warrant to the sheriff of the county to bring to their aid the power of the county whenever it shall be necessary to do so. Every warrant shall be forthwith executed by the officer to whom directed, who shall have the same powers and be subject to the same duties in the execution thereof, as if it had been duly issued out of a court of record of the State. Every such local board may prescribe and impose penalties for the violation of or failure to comply with any of its orders or regulations not exceeding one hundred dollars for a single violation or failure, to be sued for and recovered by it in the name and for the benefit of the municipality. Id., 21.

133. VITAL STATISTICS.—Every such local board shall supervise and make complete the registration of all births, marriages and deaths occurring within the municipality, and the cause of death and the findings of coroners' juries, in accordance with the methods and forms prescribed by the State Board of Health and after registration promptly forward the certificates of such births, marriages and deaths to the State Bureau of Vital Statistics. Every parent or custodian of a child born, and the groom, officiating clergyman or magistrate at every marriage shall cause a certificate of such birth or marriage, to be returned within thirty days' thereafter to the local board of health or person designated by it to receive the same, which shall be attested, if a birth, by

the physician or midwife, if any in attendance, and if a marriage by the officiating clergyman or magistrate. The cost of such registration not exceeding fifty cents for the complete registered record of a birth, marriage or death, shall be a charge upon the municipality. The charge for a copy thereof shall be fixed by the board, not exceeding the same sum for the complete copy of a single registered record, and the additional sum of twenty-five cents if certified to. Such copies shall be furnished upon request of any person, and when certified to be correct by the president or secretary of the board or local registering officer designated by it, shall be presumptive evidence in all courts and places of the facts therein stated. Id., § 222.

134. BURIAL AND BURIAL PERMITS.—Every such local board shall prescribe sanitary regulations for the burial and removal of corpses, and shall designate the persons who shall grant permits for such burial, and permits for the transportation of any corpse which is to be carried for burial beyond the county where the death occurred. Every undertaker, sexton or other person having charge of any corpse, shall procure a certificate of the death and the probable cause duly certified by the physician in attendance upon the deceased during his last illness, or by the coroner where an inquisition is required by law, and if no physician was in attendance, and no inquest has been held or required by law, an affidavit stating the circumstances, time and cause of death, and sworn to by some credible person known to the officer granting the permit, and there shall be no burial or removal of a corpse until such certificate or affidavit has been presented to the local board or to the person designated by it, and thereupon a permit for such burial or removal has been obtained. When application is made for a permit to transport a corpse over any railroad or upon any passenger steamboat within the State, the board of health, or the officers to whom such application is made, shall require such corpse to be inclosed in a hermetically sealed casket of metal or other indestructible material, if the cause of death shall have been from a contagious or infectious disease. Id., § 23.

135. CONTAGIOUS AND INFECTIOUS DISEASES.—Every such local board of health shall guard against the introduction of contagious and infectious diseases by the exercise of proper and vigilant medical inspection and control of all persons and things arriving in the municipality from infected places, or which from any cause are liable to communicate contagion. It shall require the isolation of all persons and things infected with or exposed to such diseases, and provide suitable places for the treatment and care of sick persons who cannot otherwise be provided for. It shall prohibit and prevent all intercourse and communica-

tion with or use of infected premises places and things, and require, and, if necessary, provide the means for the thorough purification and cleansing of the same before general intercourse with the same or use thereof shall be allowed. It shall report to the State Board of Health, promptly, the facts relating to contagious and infectious diseases, and every case of small-pox or varioloid within the municipality. Health officers of villages and towns shall report in writing once a month to the State Board of Health all cases of such infectious and contagious diseases as may be required by the State Board of Health, and for such reporting the health officer shall be paid by the municipality employing him, upon the certification of the State Board of Health, a sum not to exceed twenty cents for each case so reported; and the health officer shall report annually on or before the first day of January in each year the number of cases of consumption which have existed in his jurisdiction during that year, and for each case thus reported he shall receive a sum not to exceed ten cents, to be paid in the same manner as the other like charges are paid. It shall provide, at stated intervals, a suitable supply of vaccine virus, of a quality and from a source approved by the State Board of Health, and during an actual epidemic of small-pox obtain fresh supplies of such virus at intervals not exceeding one week, and at all times provide thorough and safe vaccination for all persons in need of the same. If a pestilential, infectious or contagious disease exists in any county almshouse or its vicinity, and the physician thereof shall certify that such disease is likely to endanger the health of its inmates, the county superintendent of the poor may cause such inmates or any of them to be removed to such other suitable place in the county as the local board of health of the municipality where the alms-house is situated may designate, there to be maintained and provided for at the expense of the county, with all necessary medical care and attendance until they shall be safely returned to such alms-house or otherwise discharged. The boards of health of the cities of New York, Brooklyn, Buffalo, Albany and Yonkers, shall report promptly to the State board all cases of small-pox, typhus and yellow fever and cholera and the facts relating thereto. Id., § 24.

136. NUISANCES.—Every such local board shall receive and examine into all complaints made by any inhabitant concerning nuisances, or causes of danger or injury to life and health within the municipality, and may enter upon or within any place or premises where nuisances or conditions dangerous to life and health are known or believed to exist, and by its members or other persons designated for that purpose, inspect and examine the same. The owners, agents and occupants of any such prem-

ises shall permit such sanitary examinations to be made, and the board shall furnish such owners, agents and occupants with a written statement of the results and conclusions of any such examinations. Every such local board shall order the suppression and removal of all nuisances and conditions detrimental to life and health found to exist within the municipality. Whenever the State Board of Health or its president and secretary shall by notice to the presiding officer of any local board of health, request him to convene such local board to take certain definite proceedings concerning which the State Board of Health or its president and secretary shall be satisfied that the action recommended by them is necessary for the public good, and is within the jurisdiction of such board of health, such presiding officer shall convene such local board, which shall take the action recommended. Id., § 25.

137. REMOVAL OF NUISANCES.—If the owner or occupant of any premises fails to comply with any order or regulation of any such local board for the suppression and removal of any nuisance or other matter, in the judgment of the board detrimental to the public health, made, served or posted as required in this article, such boards or their servants or employes may enter upon the premises to which such order or regulation relates, and suppress or remove such nuisance or other matter. The expense of such suppression or removal shall be paid by the owner or occupant of such premises, or by the person who caused or maintained such nuisance or other matters, and the board may maintain an action in the name of the municipality to recover such expense, and the same when recovered shall be paid to the treasurer of the municipality, or if it has no treasurer to its chief officer, to be held and used as the funds of the municipality. Id., § 26.

138. EXPENSE OF ABATEMENT OF NUISANCES A LIEN UPON THE PREMISES.—If execution upon a judgment for the recovery of the expense of the suppression or removal of a nuisance or other matter, pursuant to an order or regulation of any such local board, is returned wholly or in part unsatisfied, such judgment, if docketed in the place and manner required by law to make a judgment of a court of record a lien upon real property, shall be a first lien upon such premises, having preference over all other liens and incumbrances whatever. The board may cause such premises to be sold for a term of time for the payment and satisfaction of such lien and the expenses of the sale. Notice of such sale shall be published for twelve weeks successively, at least once in each week, in a newspaper of the city, village or town, or if no newspaper is published therein, in the

newspaper published nearest to such premises. If the owner or occupant of the premises, or his agent, is known, a copy of such notice shall be served upon him either personally, at least fourteen days previous to the sale, or by mail at least twenty-eight days prior thereto. The premises shall be sold to the person offering to take them for the shortest time, paying the amount unpaid on such judgment and interest and the expenses of such notice and sale. A certificate of the sale, signed and acknowledged by the president and secretary of the board, shall be made and delivered to the purchaser, and may be recorded as a conveyance of real property, and the purchaser shall thereupon be entitled to the immediate possession of such premises, and, if occupied, may maintain an action or proceeding to recover the possession thereof against the occupant, as against a tenant of real property holding over after the expiration of his term; and the cost of any such action or proceeding, if not paid by the occupant, shall also be a lien upon such premises. having the same preference as the lien of such judgment, and the right of the purchaser to such premises shall be extended for a longer term, which shall bear the same proportion to the original term as the amount of such costs bears to the amount paid by the purchaser on such sale. The term of the purchaser at any such sale shall commence when he shall have acquired possession of the premises sold. At any time within six months after recording such certificate, the owner of the premises or any lessee, mortgagee or incumbrancer thereof, or of any part of the same, may redeem the premises or any such part from such sale by paying to the purchaser the amount paid by him on the sale, and all costs and expenses incurred by him in any action or proceeding to recover possession with interest at the rate of ten per cent. per annum thereon. If redemption is made by the owner, the right of the purchaser shall be extinguished; if by a lessee, the amount paid shall be applied as a payment upon any rent due or which may accrue upon his lease; if by a mortgagee or an incumbrancer, the amount paid shall be added to his mortgage, incumbrance or other lien, or if he have more than one to the oldest, and shall thereafter be a part of such mortgage, lien or incumbrance and enforceable as such. Id., § 27.

139. MANUFACTURES IN TENEMENT HOUSES AND DWELLINGS.—No room or apartment in a tenement or dwelling house, used for eating or sleeping purposes, shall be used for the manufacture, wholly or partly, of coats, vests, trousers, knee-pants, overalls, cloaks, shirts, purses, feathers, artificial flowers or cigars, except by the members of the family living therein, which shall include a husband and wife and their children, or the

children of either. A family occupying or controlling such a workshop shall, within fourteen days from the time of beginning work therein, notify the board of health of the city, village or town, where such workshop is located, or a special inspector appointed by such board, of the location of such workshops, the nature of the work carried on, and the number of persons employed therein; and thereupon such board shall, if it deems advisable, cause a permit to be issued to such family to carry on the manufacture specified in the notice. Such board may appoint as many persons as it deems advisable to act as special inspectors. Such special inspectors shall receive no compensation, but may be paid by the board their reasonable and necessary expenses. If a board of health or such inspector shall find evidence of infectious or contagious diseases present in any workshop or in goods manufactured or in process of manufacture therein the board shall issue such orders as the public health may require, and shall condemn and destroy such infectious and contagious articles, and may, if necessary to protect the public health, revoke any permit granted by it for manufacturing goods in such workshop. If a board of health or any such inspector shall discover that any such goods are being brought into the State, having been manufactured, in whole or in part, under unhealthy conditions, such board or inspector shall examine such goods, and if they are found to contain vermin, or to have been made in improper places or under unhealthy conditions, the board may make such orders as the public health may require, and may condemn and destroy such goods. Id., § 28.

140. JURISDICTION OF TOWN AND VILLAGE BOARDS.—A town board of health shall not have jurisdiction over any city or incorporated village or part of such city or village in such town, if such city or village has an organized board of health. The boards of health of any town and the incorporated villages therein, or any two or more towns and the incorporated villages therein may unite, with the written approval of the State Board of Health, in a combined sanitary and registration district, and appoint for such district one health officer and registering officer, whose auhority in all matters of general application shall be derived from the boards of health appointing him; and in special cases not of general application arising within the jurisdiction of but one board shall be derived from such board alone. Id., § 29.

141. EXPENSES, HOW PAID.—All expenses incurred by any local board of health in the performance of the duties imposed upon it as its members by law shall be a charge upon the municipality, and shall be audited, levied, collected and paid in the same manner as the other charges of, or upon, the municipality

are audited, levied, collected and paid. The taxable property of any village maintaining its own board of health shall not be subject to taxation for maintaining any town board of health or for any expenditure authorized by the town board of health, but the costs and expenditures of the town board shall be assessed and collected exclusively on the property of the town outside of any such village. Id., § 30.

142. MANDAMUS.—The performance of any duty or the doing of any act enjoined, prescribed or required by this article, may be enforced by mandamus at the instance of the State Board of Health or its president or secretary, or of the local board of health, or of its president or secretary, or of any citizen of full age resident of the municipality where the duty should be performed or the act done. Id., § 31.

143. EXCEPTIONS AND LIMITATIONS AS TO CITIES OF NEW YORK, BROOKLYN, BUFFALO, ALBANY AND YONKERS.—This article shall not be constructed to affect, alter or repeal laws now in force relating to the boards of health of the cities of New York, Brooklyn, Buffalo, Albany and Yonkers, nor the sanitary codes duly adopted and now in force in such cities. Id., § 32.

CHAPTER VII.

POLICE JUSTICES.

144. POLICE JUSTICE, ELECTION OF, IN CERTAIN VILLAGES.—The trustees of any village incorporated under this act, containing a population of two thousand and upward, may, whenever in their opinion the public interest demands it, at any time not less than thirty days preceding the next annual election for village officers, direct that at such election, and at every fourth election thereafter, there shall be elected a police justice, who shall be a resident of the village in which he shall be elected, and who shall hold office for four years, and shall have the same power and jurisdiction in criminal cases which justices of the peace now by law have, or which may hereafter be conferred on justices of the peace by law, and shall be subject to the same duties and liabilities as the justices of the peace of the several towns of this State, and shall have jurisdiction in all cases of violation of village ordinances. Any village incorporated under this act or when the whole of any town shall have been duly organized as a village, the electors of such village may, if they so elect at a meeting duly called for that purpose provide for the

division of such village into districts, and for the election of the trustees of such village within the several districts which shall be esablished therein. Id., § 17, as amd., L. 1891, ch. 160.

145. JURISDICTION OF POLICE JUSTICE; SALARY; WHEN JUSTICE OF THE PEACE MAY ACT.—Such police justice shall have, within the village in which he shall have been elected or appointed, and in cases where the alleged crime of misdemeanor has been committed within such village, exclusive jurisdiction, except as hereinafter provided, to issue all warrants, hear and determine all complaints and to conduct all examinations and trials in criminal cases that may now by law be had by a justice of the peace, or before a Court of Special Sessions; and shall have the same power and jurisdiction in such criminal cases, which justices of the peace now have by law, or which may hereafter be conferred by justices of the peace by law, and shall have exclusive jurisdiction in all cases of violations of ordinances of the village of which he is police justice. He shall also have authority to administer oaths in verification of accounts and claims against the village, but shall have no other civil jurisdiction. He shall receive for his services an annual salary to be fixed by the board of trustees, which shall not be increased or decreased during his term of office, but shall not retain to his own use any costs or fees. Said justice shall be subject to the same liabilities, and his judgments and proceedings may be reviewed in the same manner and to the same extent as now by law provided in cases of justices of the peace. It shall be the duty of the several justices of the peace of the town in which such village is wholly or partially situated, during the sickness, absence from the village or inability to act, of the said police justice, or during a vacancy in said office, to render the same services and perform the same duties, and they shall be entitled to receive the same fees therefor as though no police justice had been elected or appointed in such village. But it shall not be lawful for said justices of the peace, to make any charge against such village, or the town or county in which the same is situate, for services rendered in or respecting criminal cases, trials or examinations in such village, or where the subject-matter thereof arose in such village, except as hereinbefore stated, during the sickness, absence from the village or inability to act of the said police justice, or during a vacancy in said office. L. 1875, ch. 514, § 2, as amd., L. 1876, ch. 308, § 1.

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146. JUSTICE'S RECORD TO BE KEPT; REPORT AND PAYMENT OF MONEY.—It shall be the duty of said police justice to provide a suitable book, and therein to enter and keep a

record of the several complaints made before him, in which a warrant or other process for the arrest of any person accused shall be granted, and of all cases in which the offender or person accused shall be brought before him without process, which record shall contain, under the proper date, a brief statement of the names of the parties, the nature of the offense charged, the action of the said police justice thereon, and an accurate account of all fines, penalties and costs imposed and collected by him or which may be ordered to be paid by any offender, and annually at least two weeks before the time appointed for holding the charter election of said village, and oftener when required by resolution of the board of trustees, he shall make a report in writing to the clerk of the village, of all fines, penalties and costs imposed by him; and the same day on which he shall make such report he shall pay over to the treasurer of said village all fines, penalties and costs in his hands belonging to said village. The provisions of this act shall not apply to any village in the county of Madison except the village of Hamilton and the village of Chittenango. Id., § 3, as amd., L. 1883, ch. 118.

147. VACANCY IN OFFICE OF POLICE JUSTICE, HOW FILLED.—Whenever any vacancy, by death, resignation, removal from the village or inability to discharge the duties of the office, shall occur in the said office, the trustees shall order an election to fill such vacancy at the next annual election for village officers, and in the meantime may fill the vacancy by appointment, or may designate any one of the justices of the peace of the town in which said village is situated to perform the duties of police justice until such election shall have been held. L. 1870, ch. 291, T. 3, § 18, added by L. 1871, ch. 688, § 4.

148. FEES OF POLICE JUSTICE, ETC., HOW AUDITED, ETC.—The fees of the police justices elected or appointed as hereinbefore provided, and also of any justice of the peace while acting as police justice under designation of the trustes as provided in the last section, shall be a charge upon the village, and shall be audited and allowed in the same manner as other village charges, except when such police justice shall be allowed an annual salary fixed by the board of trustees; and the trustees of any village incorporated under this act are hereby authorized and empowered by a resolution to be entered in their minutes to fix and establish an annual salary to be paid to any police justice elected or appointed under this act, and which salary shall be in lieu of any fees to which such police justice might otherwise be entitled, and all fees or charges which the police justice would have received had the office not been salaried or which are required to be paid by law shall be accounted for by said police justice and

paid to the village treasurer, and which salary, when so fixed and established shall not be increased or decreased during the term of office of such police justice. Id., § 19, added by L. 1871, ch. 688, § 4, and L. 1886, ch. 616.

149. EXPENSES FOR ARREST, ETC., IN CERTAIN CASES, HOW PAID.—In all cases where parts of two or more counties are included within the limits of any incorporated village within this state, the legal expenses for arrest, trial and punishment for crimes and misdemeanors where on conviction the fine, penalty or forfeiture goes to such village shall be borne and paid by such village; in all other cases the legal costs of arrest, trial and punishment, or either, within the jurisdiction of, and entertained by a police court of such village, shall be borne and paid by the town or county in which such offense was actually committed. L. 1880, ch. 235, § 1, as amd., L. 1881, ch. 615, § 1.

But see § 101 n, post.

150. IMPRISONMENT IN LIKE CASES.—In all cases of imprisonment of persons charged with the commission of any offense, or under sentence on conviction of any offense within the jurisdiction of any police court of such village, such imprisonment shall be in the county where such offense was actually committed, or in the penitentiary nearest such village unless the county in which such offense was committed has a contract with some penal institution for the keeping of convicts, in which case the imprisonment, if not in such county, shall be in the penal institution with which there is such contract. L. 1881, ch. 615, § 2.

151. CIVIL JURISDICTION OF POLICE COURTS.—The civil jurisdicion of police jusices within any incorporated village of this state shall be limited to cases in which said village is a party in interest, but nothing in this section shall be construed to affect police justices in villages incorporated by special acts. Id., § 3, as amd., L. 1881, ch. 690.

§ 1; L. 1881, ch. 690, § 2, repeals L. 1880, ch. 235. This probably repeals § 149, *ante*. § 4 repeals all inconsistent acts whether general or local.

152. OATH OF OFFICE.—Every police justice elected or appointed under this act shall, within ten days after his election, and before entering upon the duties of his office, take and subscribe the constitutional oath of office, and file the same in the office of the town clerk of the town in which he resides. L. 1870, ch. 291, T. 3, § 20, added by L. 1871, ch. 688, § 4.

153. PROVISO.—Any provision of title two of this act, inconsistent with the provisions hereinbefore contained relating to police justices, shall not be held to apply to said office of police justice. Id., § 21, added by L. 1871, ch. 688, § 4.

154. CREDIT FOR SIDEWALK ON ASSESSMENT, WHEN.—Whenever any person owning or occupying lands adjoining a highway within the limits of any village incorporated under the provisions of this act shall, with the consent of the trustees of such village, or a majority of them, grade and flag or construct a stone sidewalk within such highway, along the line of such lands so owned or occupied by him, of the width of four or more feet, it shall be the duty of said trustees to examine the same when finished, and to credit such owner or occupant therefor so much on account of his assessment for highway tax in said village, as such trustees shall deem necessary, to pay, not to exceed three-fourths of the actual and necessary expense of constructing such sidewalk, and to deliver to such owner, or occupant their certificate of the amount of such credit; but such credit shall in no case be less than three dollars per lineal rod for the amount of said walk so constructed and finished. If said trustees find said walk or walks to be less value than four dollars per lineal rod, then they are to give no credit whatever for the construction of the same. The trustees of such village shall thereafter exempt the owner or occupant of such lands from all highway taxes in said village, till the amount of such exemption shall be equal to the sum of the credit for which said certificate was allowed. Id., § 22, added by L. 1880, ch. 292. See, also, § 101, ante.

CHAPTER VIII.

EXPENDITURES, ORDINARY AND EXTRAORDINARY, AND MUNICIPAL BONDS.

155. EXPENDITURES CLASSIFIED.—The expenditures of the village shall be denominated "ordinary expenditures" and "extraordinary expenditures." L. 1870, ch. 291, T. 4, § 1.

156. "ORDINARY EXPENDITURES" DEFINED.—"Ordinary expenditures" shall be those necessarily incurred to carry out and enforce the rules, by-laws and ordinances which the trustees are authorized to adopt by title three* of this act, and to give force to the powers therein conferred, except as such expenditures may be specifically enlarged, or diminished, or controlled, by other provisions of this act. Id., § 2.

39 Hun, 240, 242.

157. LIMITATION OF EXPENDITURES.—No ordinary expenditure for any one specific act, object, purpose or thing,

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*§ 67, *ante*.

except the lighting of streets, shall exceed the sum of five hundred dollars, and taxes raised for any specific item of anticipated expense under section eleven of title three of this act, shall not be applied to any other than the designated purpose during the current year. In villages having upwards of one thousand inhabitants, the trustees shall have power to expend a sum, not exceeding in the aggregate, fifty cents per capita per annum, of the population of the village for the purpose of lighting streets. Nothing herein contained shall be construed to abridge the powers of the trustees of any village to pay an annual salary to more than one police constable of such village, not exceeding the sum of five hundred dollars to each. Id., § 3, L. 1893, ch. 400.

158. MONEY FOR EXTRAORDINARY REPAIRS, HOW RAISED; SPECIAL ELECTION; CERTIFICATES OF INDEBTEDNESS OR BONDS.—The trustees shall have power to raise money for an extraordinary expenditure for any village purposes by assessment and tax, by submitting a resolution stating the amount to be raised, the specific object for which, and whether the same is to be raised in one sum or in annual installments, and if in annual installments, the number thereof and the amount of each, to the annual election, or to a special election, of the legal electors entitled to vote on such questions, to be held as in this act directed. The trustees shall have power to appoint such special election, designating time and place. If the majority of the ballots cast have on them the word "yes," then the trustees may raise the amount voted, as stated in such resolution, without further action by such electors; and when the resolution adopted provides for raising the same in installments, the trustees may issue certificates of indebtedness or bonds of the village for the amount of such installments, payable respectively when such installments are to be raised, with interest not exceeding six per cent per annum, and may apply the same or the proceeds thereof to the objects specified in such resolution. Said certificates or bonds shall be executed by the president of the board of trustees, and the treasurer of said village, and unless the same shall be delivered in payment of the extraordinary expenditure for which they are issued, shall be sold by the trustees of said village to the highest bidder at public sale, notice of which shall be given by publishing the same in a newspaper published in said village at least once a week for two weeks successively prior to the day of sale, and if no newspaper is published in said village, by posting such notice in three public places in said village at least five days prior to such sale. Such certificates or bonds shall not be sold for less than par. Id., § 4, as amd., L. 1884, ch. 131, § 1.

27 Hun, 390; 39 id., 242.

159. ELECTIONS TO AUTHORIZE EXTRAORDINARY EXPENDITURES.—When extraordinary expenditures shall be necessary for any village purposes, in the judgment of the trustees, they shall have power to pass a resolution or resolutions to be entered in the records of their proceedings, specifying the object and the amount required, and whether the same is to be raised in one sum or in annual installments, and if in annual installments, the number thereof and the amount of each. No resolution shall express more than one object and the amount required for the same, and whether it is to be raised in one sum or in annual installments, and if in annual installments, the number thereof and the amount of each. If more than one such resolution is submitted at the same election, whether an annual or special election, such resolutions shall be numbered respectively, one, two, three up to the number of the resolutions submitted, and the ballots used at such election shall be as many as the resolutions submitted, and having thereon the words "resolution number one," or "resolution number two," or "resolution number three," up to the number of the resolutions, with the word "yes," or the word "no." Ten days' notice of such election, whether an annual or special election, shall be given by the clerk by posting notices in six public places in the village, stating time, place and object of the election, and a copy of the resolution or resolutions to be submitted. The same inspectors shall preside at and the same provisions apply to such election as are provided for in this act for all village elections held after the first election of officers of the village. If the majority of the ballots cast have thereon the word "yes" for any resolution, such resolution shall be adopted. The return of the inspectors shall set forth each resolution voted on and shall state the number of ballots with "yes" or with "no" received for such resolution. The inspectors presiding at such election shall file their return of such election with the village clerk, within ten days after such election. Id., § 5, as amd., L. 1884, ch. 131, § 2.
39 Hun, 242.

160. EFFECT OF REJECTION OF RESOLUTION TO INCUR DEBT.—Whenever at a general or special election in any incorporated village of this State, any resolution or proposition for purpose involving taxation or the incurring of debt in or by such village shall have been rejected, no resolution or proposition embracing the same or any similar purpose shall be again submitted to vote in such village before the next annual election thereafter, except when the necessity of the occasion for the same shall have arisen after the rejection of such resolution or proposition. L. 1881, ch. 353, § 1.

161. SPECIAL MEETINGS TO RAISE MONEY.—Whenever it shall be desired by any village, whether incorporated under a special act or organized under the general act for the incorporation of villages, to raise moneys additional to the amount permitted to be raised by its charter or by the general law aforesaid, for the purpose of building a bridge, constructing a sewer, or carrying out some other proper village object, the trustees of any such village may call a special election of the tax-paying electors thereof and submit to them the question of raising such moneys, and if a majority of such electors voting thereon shall vote in favor of raising such moneys, the trustees are authorized to raise the same in the same manner as other village taxes are raised and collected; and in anticipation of such tax may temporarily borrow the amount thereof upon the credit of such village and use the said moneys for the purpose desired. But if the amount desired to be raised for any of the purposes aforesaid shall not exceed in the aggregate the sum of five hundred dollars, the trustees of any such village may, by a unanimous vote of all the trustees in office, and without submitting the question to the said electors, proceed to raise the same in the same manner as other village taxes are raised and collected, and may in anticipation of such tax temporarily borrow the amount thereof upon the credit of such village, and use the said moneys for the purposes intended. L. 1887, ch. 504, § 1.

46 Hun, 548.

162. SCOPE OF FOREGOING SECTION.—The powers conferred by this act are in addition and supplementary to and independent of all other powers possessed by villages, either under any special act or under the general act for the incorporation of villages; and when the trustees of any village shall act under its provisions they shall state in their proceedings that they are taken under the "Act of eighteen hundred and eighty-seven conferring additional powers upon villages." Id., § 2.

46 Hun, 549.

163. HIGHWAY TAX; HIGHWAY MONEYS.—In addition to the amount raised by the trustees for "ordinary expenditures," the trustees shall have power, in any one year, in addition to the poll-tax, to raise by tax such sum as they may deem necessary, not exceeding in any one year the amount of one per centum on the assessed valuation of such village, to be denominated a highway tax, to work and improve the roads, avenues, streets, public squares and parks, lanes, sidewalks and crosswalks of said village, on all persons and incorporated companies, owning property and estate, real and personal, in said village, to be assessed and collected as all other taxes are, by the provisions of this act. The money so raised, with the proceeds of the poll-tax, shall be

devoted to the purposes expressed in this section, and kept apart as a separate and distinct fund by the treasurer. L. 1870, ch. 291, T. 4, § 6, as amd., L. 1871, ch. 870, § 2, and L. 1880, ch. 422, § 2.

10 N. Y. St. Rep., 743.

164. TRUSTEES TO CONTRACT FOR WATER SUPPLY.—The board of trustees shall also have power, and is hereby authorized to contract with any water company for supplying the village with water for the purpose of extinguishing fires, and to assess and collect the amount agreed to be paid in such contract as other village taxes are assessed and collected; and any such contract entered into by the trustees of any village shall be valid and binding upon such village; provided, however, that no such contract shall be made for a longer period than five years, nor for a sum exceeding in the aggregate fifty cents per capita, per annum, of the population of the village, unless the proposition for the same be submitted to a vote of the citizens, in the manner provided in sections four and five of this title, and approved by a majority of the voters entitled to vote on such question, and voting at an annual election, or at a special election duly called. Id., § 7, added by L. 1879, ch. 129.

29 Hun, 548

165. CONTRACTS FOR SUPPLYING THE STREETS, ETC., WITH LIGHT.—The board of trustees shall also have power and is hereby authorized to contract with any gas company or gas and electric lighting company combined or other person or persons for supplying the streets and public buildings of the village with light and to assess and collect the amount agreed to be paid in such contract as other village taxes are assessed and collected, and any such contract entered into by the trustees of any village, shall be valid and binding upon such village; provided, however, that no such contract shall be made (for a longer period than that now provided by law, nor for a sum exceeding in the aggregate that now provided by law) until the proposition for the same shall have been submitted to a vote of the citizens in the manner provided in sections four and five of this title and approved by a majority of the voters entitled to vote on such question, and voting at an annual election or at a special election duly called, and such contract shall not be made for a term exceeding five years. Id., § 8, as amd., L. 1891, ch. 139.

51 St. Rep., 356; 67 Hun, 218.

166. LOCAL IMPROVEMENTS AND MONEYS FOR; TRUSTEES MAY PROVIDE FOR.—The trustees of any village, having a population of at least five thousand persons, whether incorporated under a special act or organized under the general act for the incorporation of villages, shall likewise have power to pro-

vide by resolution of the board of trustees, passed at a regular meeting, by a vote of not less than a majority of all the members of said board, for the making of any local improvement which they may deem to be for the best interests of such village, and for raising money therefor either by temporary loan or by the issuance of bonds of the village, provided that no resolution, passed under the authority conferred by this section, shall have any force or effect unless notice of the passage thereof shall be published in a newspaper of said village at least once in each week, for four weeks thereafter immediately succeeding, nor unless within sixty days after the last publication of said resolution, there shall be filed in the office of the village clerk written consents that said resolution take effect, signed by at least one hundred taxpayers of said village who shall be the owners of a majority in value of all the taxable property situate within the limits of said village, according to the valuations of such property upon the last preceding assessment-roll of said village, and acknowledged by such taxpayers, and each of them, before an officer authorized to take acknowledgments of deeds for record. And upon the publication of such notice and the filing of such consents within the times above limited, the said resolution shall have full force and effect as if the same had been specially authorized by law. L. 1890, ch. 371.

167. INVESTIGATION OF EXPENDITURES OF TOWNS AND VILLAGES.—If twenty-five free holders in any town or village shall present to a justice of the Supreme Court of the judicial district in which such town or village is situated, an affidavit, stating that they are freeholders and have paid taxes on real property within such town or village within one year; that they have reason to believe that the moneys of such town or village are being unlawfully or corruptly expended, and the grounds of their belief, such justice, upon ten days' notice to the supervisor, and the officers of the town disbursing the funds to which such moneys belong, or the trustees and treasurer of the village, shall make a summary investigation into the financial affairs of such town or village, and the accounts of such officers, and, in his discretion, may appoint experts to make such investigation, and may cause the result thereof to be published in such manner as he may deem proper.

The cost incurred in such investigation shall be taxed by the justice, and paid, upon his order, by the officers whose expenditures are investigated, if the facts in such affidavit be substantially proved, and otherwise, by the freeholders making such affidavit. If such justice shall be satisfied that any of the moneys of such town or village are being unlawfully or corruptly expended, or are being appropriated for purposes to which they

are not properly applicable, or are improvidently squandered or wasted he shall forthwith grant an order restraining such unlawful or corrupt expenditure, or such other improper use of such moneys. L. 1892, ch. 685, § 3.

168. TEMPORARY LOANS.—Moneys shall not be borrowed by a municipal corporation on temporary loan, except in anticipation of the taxes of the current fiscal year and for the purposes for which such taxes are levied, and shall not be in excess of the amount of such taxes. Such loans shall always be made payable within eight months and in no case shall interest run on any such loans after such taxes are paid into the treasury of the corporation. Id., § 4.

169. FUNDED DEBT.—A funded debt shall not be contracted by a municipal corporation, except for a specific object, expressly stated in the ordinance or resolution proposing it; nor unless such ordinance or resolution shall be passed by a two-third vote of all the members elected to the board or council adopting it, or submitted to, and approved by the electors of the town or county, or taxpayers of the village or city when required by law. Such ordinance or resolution shall provide for raising annually, by tax, a sum sufficient to pay the interest and the principal, as the same shall become due. Id., § 5.

170. PAYMENT OF MUNICIPAL BONDS.—Where the bonds of a municipal corporation have been lawfully issued, and the payment of the principal or interest thereof shall not have been otherwise paid or provided for, the same shall be a charge upon such corporation, and shall be levied and assessed, collected and paid the same as other debts and charges. When for any reason any portion of the principal or interest due upon such bonds shall not have been paid, the same shall be assessed, levied and collected at the first assessment and collection of taxes by such corporation after such omission. Id., § 6.

171. FUNDED AND BONDED DEBTS.—The bonded indebtedness of a municipal corporation, including interest due or unpaid, or any part thereof, may be paid up or retired by the issue of new substituted bonds for like amounts by the board of supervisors or supervisor, board, council or officers having in charge the payment of such bonds. Such new bonds shall only be issued when the existing bonds can be retired by the substitution of the new bonds therefor, or can be paid up by money realized by the sale of such new bonds. Where such bonded indebtedness shall become due within two years from the issue of such new bonds, such new bonds may be issued and sold to provide money in advance to pay up such existing bonds when they shall become due. Such new bonds shall contain a recital that they are issued

pursuant to this section, which rectial * shall be conclusive evidence of their validity and of the regularity of the issue; shall be made payable not less than one or more than thirty years from their date; shall bear date and draw interest from the date of the payment of the existing bonds, or the receipt of the money to pay the same, at not exceeding the rate of four per centum per annum, payable quarterly, semi-annually or annually; and an amount equal to not less than two per centum of the whole amount of such new bonds shall be payable each year after the issue thereof. Such new bonds shall be sold and negotiated at the best price obtainable, not less than their par value; shall be valid and binding on the municipal corporation issuing them; and until payable shall be exempt from taxation for town, county, municipal or State purposes. All bonds and coupons retired or paid shall be immediately canceled. A certificate shall be issued by the officer, board or body issuing such new bonds, stating the amount of existing bonds, and of the new bonds so issued, which shall be forthwith filed in the office of the county clerk. Except as provided in this section, new bonds shall not be issued in pursuance thereof, for bonds of a municipal corporation adjudged invalid by the final judgment of a competent court. A majority of the taxpayers of a town, voting at a general town meeting, or special town meeting duly called, may authorize the issue in pursuance of this section of new bonds for such invalid bonds, and each new bond so issued shall contain substantially the following recital: "The issue of this bond is duly authorized by a vote of the taxpayers of the said town;" which shall be conclusive evidence of such fact. The payment, adjustment or compromise of a part of the bonded indebtedness of a municipal corporation shall not be deemed an admission of the validity or a recognition of any part of the bonded indebtedness of such municipal corporation not paid, adjusted or compromised. Id., § 7, as amd., L. 1893, ch. 122, and L. 1893, ch. 466.

172. ISSUANCE OF MUNICIPAL BONDS.—Each bond issued by a municipal corporation shall be signed by each officer issuing the same, with the designation of his office; and the interest coupons attached thereto, if any, shall be signed by one of their number. Each such bond shall state the place of payment and, if no coupons are attached thereto, the name of the payee. Id., § 8.

173. REGISTRY OF MUNICIPAL BONDS.—Each municipal corporation shall keep in the office of its clerk suitable books, in which shall be entered a full description of the amount, rate of interest, class, number, date of issue, pursuant to what law,

* So in the original.

and maturity of all bonds issued by any of its officers, and, if such statement is not already entered, of all bonds converted from coupon into registered bonds. A bond to which no coupons are attached may be registered, at the request of the payee, in the books so kept in the office of such clerk, and a certificate of such registry shall be indorsed upon the bond by such clerk, and attested by his seal, if he has one. The clerk shall be entitled to a fee of twenty-five cents for each bond so registered. The principal and interest of a registered municipal bond shall be payable only to the payee, his legal representatives, successors or assigns, and shall be transferable only upon presentation to such clerk, with a written assignment duly acknowledged or approved. The name of the assignee shall be entered upon such bond so transferred and the books so kept in the office of the clerk. Id., § 9.

174. CONVERSION OF COUPON INTO REGISTERED BONDS.—When the owner of coupon bonds of a municipal corporation shall present any such bonds to the officers who issued the same, or their successors, with a written request for their conversion into registered bonds, such officer shall cut off and destroy the coupons and stamp, print or write upon each of the bonds a statement, properly dated, of the amount and value of such coupons, and that the interest, at the rate and on the date, as was provided by the coupons, as well as the principal, is to be paid to such owner, his legal representatives, successors or assigns, at a place therein stated, which shall be the place stated in the coupons, unless changed with the written consent of the owner; and thereupon such bonds may be registered in the office of the clerk of the municipal corporation. This section shall not apply where provision is otherwise made by law or local ordinance, for the conversion or exchange of coupons for registered bonds. Id., § 10.

175. DEFECTS NOT INVALIDATING MUNICIPAL BONDS.—When the bonds of a municipal corporation have been issued and sold by the proper authorities, and the time fixed for their maturity shall be for a longer period than provided by the law under which they were issued, a variance of not exceeding sixty days shall not affect their validity. Id., § 11.

176. MUNICIPAL TAXES OF RAILROADS PAYABLE TO THE COUNTY TREASURER.—If a town, village or city has outstanding unpaid bonds, issued, or substituted for bonds issued, to aid in the construction of a railroad therein, so much of all taxes as shall be necessary to take up such bonds, except school district and highway taxes, collected on the assessed valuation of such railroad in such municipal corporation, shall be paid over to the treasurer of the county in which the muni-

cipal corporation is located. Such treasurer shall purchase with such moneys of any town, village or city, such bonds, when they can be purchased at or below par, and shall immediately cancel them in the presence of the county judge. If such bonds cannot be purchased at or below par, such treasurer shall invest such money in the bonds of the United States, of the State of New York, or of any town or village or city of such State, issued pursuant to law; and shall hold such bonds as a sinking fund for the redemption and payment of such outstanding railroad aid bonds. If a county treasurer shall unreasonably neglect to comply with this section, any taxpayer of the town, village or city having so issued its bonds may apply to the county judge of the county in which such municipal corporation is situated, for an order compelling such treasurer to execute the provisions of this section. The county treasurer of any county in which one or more towns therein shall have issued bonds for railroad purposes, shall, when directed by the board of supervisors or county judge of the county, execute and file in the office of the county clerk an undertaking, with not less than two sureties, approved by such board or judge, to the effect that he will faithfully perform his duties pursuant to this section. The annual report of a county treasurer shall fully state, under the head of "railroad sinking fund," the name and character of all such investments made by him or his predecessors, and the condition of such fund. § 11, as amd., L. 1893, ch. 466.

177. ABOLITION OF OFFICE OF RAILROAD COMMISSIONERS.—The board of supervisors of any county may, upon the application of the auditing board of any municipal corporation therein, by resolution, abolish the office of railroad commissioners of such municipal corporation, and direct the manner of the transfer of their duties to the supervisor of the town, or the treasurer of the municipal corporation other than a town, and upon his compliance with such directions, such transferee shall be vested with all the powers conferred upon such railroad commissioners and subject to all the duties imposed upon them. Id., § 13.

178. APPOINTMENT OF RAILROAD COMMISSIONERS.—The county judge of any county within which is a municipal corporation having or being entitled to have railroad commissioners, when this chapter shall take effect, and in which the duties imposed upon such commissioners are not fully performed, shall continue to appoint and commission, upon the application of twenty freeholders within such corporation, three persons, who shall be freeholders and resident taxpayers therein, commissioners for the purpose of performing the duties and completing the business required of them pursuant to this chapter

or any law. Such commissioners shall hold their office for five years, and until others are appointed by the county judge, unless their duties shall be sooner performed, or the office shall be abolished, who shall also, in like manner, fill any vacancies that may exist therein. Such commissioners shall each receive the sum of three dollars per day for each day actually engaged in the discharge of their duties, and the necessary disbursements to be audited and paid by the usual auditing and disbursing officers of such municipal corporation. A majority of such commissioners, at a meeting of which all have notice, shall constitute a quorum. Id., § 14.

179. OATH AND UNDERTAKING OF COMMISSIONERS.—Before entering upon their duties such commissioners shall take the constitutional oath of office, and make and file with the county clerk of their county, their joint and several undertaking, with two or more sureties to be approved by the county judge of their county, to the effect that they will faithfully discharge their duties as such commissioners, and truly keep, pay over and account for all moneys belonging to such corporation coming into their hands. Id., § 15.

180. EXCHANGE OR SALE OF RAILROAD STOCK AND BONDS.—The commissioners or officers of a municipal corporation, having the lawful charge and control of any railroad stock or bonds, for or in payment of which the bonds of such municipal corporation have been lawfully issued in aid of such railroad corporation, may exchange the stock or bonds of such railroad corporation for and in payment of such bonds, or the new substituted bonds of such municipal corporation, when such exchange can be made for not less than the par value of the stocks or bonds so held by them. If they cannot make such exchange they may sell such stock or bonds at not less than par; but they may, on the application and with the approval of the governing board of the municipal corporation owning such stock and bonds, exchange, sell or dispose of such stock or bonds, at the best price and upon the best terms obtainable, for the municipal corporation they represent, and shall execute to the purchaser the necessary transfers therefor. All moneys received for any stock or bonds shall only be applied to the payment and extinguishment of the bonds of the municipal corporation, lawfully issued in aid of any such railroad, or substituted therefor; except that if the bonds so issued or substituted have all been paid, or the moneys so realized shall be more than sufficient to pay them in full, and all the costs and expenses of the sale, such proceeds or balance thereof shall be paid by the officers making the sale, to the supervisor of the town, or the treasurer of the municipal corporation, and applied to such lawful uses as the governing board

of the municipal corporation, entitled to the same, may direct. Id., § 16.

181. ANNUAL REPORT OF COMMISSIONERS AND PAYMENT OF BONDS.—The commissioners of a municipal corporation, having in charge the moneys received and collected, and who are responsible for the payment of the interest of the bonds lawfully issued by such municipal corporation, in aid of railroads, shall annually report to the governing board of the municipal corporation the total amount of the municipal indebtedness of the municipal corporation they represent, upon such bonds or such new bonds substituted therefor, the date of the bonds and when payable, the rate of interest thereon, the acts under which they were issued, the amount of principal and interest that will become due thereon before the next annual tax levy and collection of taxes for the next succeeding year, and the amount in their hands applicable to the payment of the principal or interest thereon. Each year such governing board shall levy and collect of the municipal corporation sufficient money to pay such principal and interest, as the same shall become due and payable. When collected, such moneys, with the unpaid sums on hand, shall be forthwith paid over to such commissioners, and applied by them to the purposes for which collected or held. When paid, such bonds shall be presented by such commissioners to the governing board of the municipal corporation, at least five days before the annual town meeting, village or city election, or meeting of the board of supervisors, next thereafter held, who shall cancel the same, and make and file a record thereof in the clerk's office of the municipal corporation, whose bonds were so paid or canceled. Id., § 17, as amd., L. 1893, ch. 466.

182. ACCOUNTS AND LOANS BY COMMISSIONERS.—Such commissioners shall present to the auditing board of the municipal corporation they represent, at each annual meeting of such board, a written statement or report, showing all their receipts and expenditures, with vouchers. They shall also loan on proper security or collaterals, or deposit in some solvent bank, or banking institutions, at the best rate of interest they can obtain, or invest in the bonds of the municipal corporation they represent, or in bonds of the State, or of any town, village, city or county therein, issued pursuant to law, or in the bonds of the United States, all moneys that shall come into their hands by virtue of their office, and not needed for current liabilities ; and all earnings, profits or interest accruing from such loans, deposits or investments, shall be credited to the municipal corporation they represent, and accounted for in their annual settlement with the governing board thereof. Id., § 18.

183. REISSUE OF LOST OR DESTROYED BONDS.—When any bonds lawfully issued by a municipal corporation in aid of any railroad, or in substitution for bonds so issued, shall be lost or destroyed, such commissioners may issue new bonds in the place of the ones so lost or destroyed, at the same rate of interest, and to become payable at the same time, upon the owner furnishing satisfactory proof, by affidavit, of such ownership, and loss or destruction, and a written indemnity, with at least two sureties, approved as to form and sufficiency by the county judge of the county in which such municipal corporation is situated. Every new bond so issued shall state upon its face the number and denomination of the bond for which it is issued, that it is issued in the place of such bond claimed to have been lost or destroyed, that is it issued as a duplicate thereof, and that but one is to be paid. Such affidavit and indemnity, duly indorsed, shall be immediately filed in the county clek's office. Id., § 19.

184. PAYMENT OF JUDGMENTS AGAINST MUNICIPAL CORPORATION.—When a final judgment for a sum of money shall be recovered against a municipal corporation, and the execution thereof shall not be stayed pursuant to law, or the time for such stay shall have expired, the treasurer or other financial officer of such corporation having sufficient moneys in his hands belonging to the corporation not otherwise specifically appropriated, shall pay such judgment upon the production of a cerfied copy of the docket thereof. Id., § 20.

185. LIABILITY FOR DAMAGES BY MOBS AND RIOTS.—A city or county shall be liable to a person whose property is destroyed or injured therein by a mob or riot, for the damages sustained thereby, if the consent or negligence of such person did not contribute to such destruction or injury, and such person shall have used all reasonable diligence to prevent such damage, shall have notified the mayor of the city, or sheriff of the county, of a threat or attempt to destroy or injure his property by a mob or riot, immediately upon acquiring such knowledge, and shall bring an action therefor within three months after such damages were sustained. A mayor or sheriff receiving notification of a threat or attempt to destroy or injure property by a mob or riot shall take all lawful means to protect such property; and if he shall neglect or refuse, the person whose property shall be destroyed or injured, may elect to bring his action for damages against such officer instead of the city or county. Id., § 21.

186. CONDEMNATION OF REAL PROPERTY.—A municipal corporation authorized by law to take and hold real property for the uses and purposes of the corporation, may, if it is

unable to agree with the owners for the purchase thereof, acquire title to such property by condemnation. Id., § 22.

187. INSURANCE OF PROPERTY.—Public officers having by law the care and custody of the public buildings and other property of a municipal corporation, may insure the same at the expense and for the benefit of such corporation. Id., § 23.

188. FREE PUBLIC LIBRARIES.—A majority of the taxable inhabitants of a town, city or village, as shown by the last preceding assessment-roll thereof, may petition the governing board of such municipal corporation for the establishment of a free public library therein; which petition shall be approved as to its sufficiency by the county judge of the county in which such municipal corporation is located, by his indorsement thereon, and shall be filed by the clerk of such municipal corporation, in the clerk's office of the county in which such corporation is situated. Upon such petition being made and approved, the governing board of such municipal corporation may, by a resolution, establish and maintain a free public library or reading-room therein, with or without branches, under such regulations as such board may prescribe, and the town, village or city may appropriate for suitable buildings or rooms, and for the foundation of such library or reading-room, a sum not exceeding one dollar for each elector residing therein, at the time such appropriation is made, who voted at the last preceding general election therein; and may also appropriate annually, for the maintenance and increase thereof, or of any public library or reading-room organized pursuant to law, in such town, village or city, a sum not exceeding seventy cents for each such elector therein; and may receive, hold and manage any devise, bequest or donation, for the establishment, increase or maintenance of a free library or reading-room in such municipal corporation. The money so appropriated shall be audited, assessed, levied and collected the same as other town, village or city charges. When a village shall establish a free public library or reading-room, it shall be exempt from any charge for the establishment or maintenance of a library or reading-room in the town in which it is situated. Id., § 24.

189. ACQUISITION OF LANDS FOR ERECTION OF MONUMENTS. The governing board of a village or town, or the trustees of a monument association, may acquire not to exceed three acres of land, for erection of a soldiers' monument or a monument or other structure as a memorial of some distinguishing or important event in the history of the State or nation, and for laying out such lands as a public park or square, if such lands are vacant or have buildings thereon not exceeding two thousand five hundred dollars in value, and if a judge of the county, or a justice of the Supreme Court of the district, in which such memorial is to be

erected, shall give his written approval of the acquisition of such lands for such purpose. Id., § 25.

190. LEASES OF PUBLIC BUILDINGS TO GRAND ARMY POSTS. A municipal corporation may lease, for not exceeding five years, to a post or posts of the Grand Army of the Republic, or other veteran organization of honorably discharged union soldiers, sailors or marines, a public building or part thereof, belonging to such municipal corporation, except school-houses in actual use as such, without expense, or at a nominal rent, fixed by the board or council having charge of such buildings. Id., § 26.

191. DISCRIMINATION AGAINST NON-RESIDENTS.—Any restriction or regulation imposed by the governing board of a municipal corporation upon the inhabitants of any other municipal corporation within this State, carrying on or desiring to carry on any lawful business or calling within the limits thereof, which shall not be necessary for the proper regulation of such trade, business or calling, and shall not apply to citizens of all parts of the State alike, except ordinances or regulations in reference to traveling circuses, shows and exhibitions, shall be void.

192. SAME BY COUNTIES, CITIES, ETC.; LIMITATION OF INDEBTEDNESS AND TAXATION.—No county, city, town or village shall hereafter give any money or property or loan its money or credit to or in aid of any individual, association or corporation, or become directly or indirectly the owner of stock in, or bonds of any association or corporation; nor shall any such county, city, town or village be allowed to incur any indebtedness except for county, city, town or village purposes. This section shall not prevent such county, city, town or village from making such provision for the aid or support of its poor as may be authorized by law. No county containing a city of over one hundred thousand inhabitants, or any such city, shall be allowed to become indebted for any purpose or in any manner to an amount which including existing indebtedness, shall exceed ten per centum of the assessed valuation of the real estate of such county or city, subject to taxation, as it appeared by the assessment-rolls of said county or city on the last assessment for State or county taxes prior to the incurring of such indebtedness; and all indebtedness in excess of such limitation, except such as may now exist, shall be absolutely void, except as herein otherwise provided. No such county or such city whose present indebtedness exceeds ten per centum of the assessed valuation of its real estate subject to taxation shall be allowed to become indebted in any further amount until such indebtedness shall be reduced within such limit. This section shall not be construed to prevent the issu-

ing of certificates of indebtedness or revenue bonds issued in anticipation of the collection of taxes for amounts actually contained, or to be contained in the taxes for the year when such certificates or revenue are issued and payable out of such taxes. Nor shall this section be construed to prevent the issue of bonds to provide for the supply of water but the term of the bonds issued to provide for the supply of water shall not exceed twenty years and a sinking fund shall be created on the issuing of said bonds for their redemption, by raising annually a sum which will produce an amount equal to the sum of the principal and interest of said bonds at their maturity. The amount hereafter to be raised by tax for county or city purposes in any county containing a city of over one hundred thousand inhabitants or any such city of this state, in addition to providing for the principal and interest of existing debt, shall not in the aggregate exceed in any one year two per centum of the assessed valuation of the real and personal estate of such county or city; to be ascertained as prescribed in this section in respect to county or city debt. N. Y. const. art. 8, id., § 11.

76 N. Y., 475; 96 id., 432; 99 id., 586; 101 id., 490; 102 id., 313; 5 Hun, 475; 39 id., 370; 40 id., 190, 194.

CHAPTER IX.

POWERS AND DUTIES OF OFFICERS OTHER THAN TRUSTEES.

193. VILLAGE PRESIDENT; HIS POWERS, ETC.—It shall be the duty of the president of the board of trustees to see that the by-laws, rules and ordinances of the village, and the provisions of this act, are enforced, and to recommend to the board such measures as he may think necessary; and, as the head of the police of the village, he shall maintain peace and good order, and have the power of arrest for such purpose. If the president shall be unable to perform the duties of his office, the board of trustees shall appoint one of their number to preside at their meetings and he shall be vested with all the powers and perform all the duties of the president of the village until the president shall resume his office or the vacancy shall be filled according to law. L. 1870, ch. 291, T. 5, § 1.

194. MONEYS, HOW DRAWN FROM TREASURY.—The treasurer shall receive all moneys belonging to the village, and keep an accurate account of all the receipts and expenditures. He shall daily deposit all moneys received by him in the banks designated by the board of trustees, subject to his check as

treasurer. All moneys shall be drawn from the treasury, in pursuance of an order of the board of trustees, by warrant, signed by the president or the presiding officer of the board, and countersigned by the clerk. The treasurer shall not check out any money so deposited, except to satisfy a warrant upon the treasury, or to transfer it, on direction of the board of trustees to another deposit bank. He shall report in writing to the board of trustees at each regular meeting thereof the amount of money received by him and the sources from which received, and also the true state of the treasury, which reports shall be filed in the office of the clerk. The books and entries of the treasurer and the order or check-book of the clerk shall be open for inspection by any elector of the village at all reasonable hours. The treasurer shall exhibit to the board of trustees at least fifteen days before the annual election in each year a full account of all the receipts and expenditures after the date of the last annual report, and also the state of the treasury, which account shall be filed in the office of the clerk. The treasurer shall keep separate accounts of the moneys received and paid out for every specific item, object, purpose or thing of estimated ordinary expenditure, amounting to one hundred dollars and upwards and of the other ordinary expenditures and of extraordinary expenditures, and on account of highway tax. If at the annual meeting of electors of the village, there shall be a surplus of ordinary expenditure taxes on hand, the whole of such surplus shall be applied to the highway tax for the ensuing year. The treasurer upon conviction of having lent, or deposited in any bank not designated by the board of trustees or unlawfully appropriated to his own use any money of the village received by him, shall be deemed guilty of embezzlement. All interest realized on any money of the village shall belong to the village. Id., § 2, L. 1870, ch. 291, § 2, tit. 5, as amd., L. 1891, ch. 160.

195. JURISDICTION OF JUSTICES OF THE PEACE AND POLICE JUSTICES; FEES AND COMPENSATION.—Any justice of the peace in the town or towns in which such village shall be located shall have jurisdiction in all criminal cases that may arise within the bounds of the village in the county in which they severally reside, with the same powers and subject to the duties and liabilities as a justice of the peace in other cases. He shall also have jurisdiction in all actions brought to recover fines or penalties for the violation of any provisions of this act, and of the rules, by-laws and ordinances of the village, or to recover any tax or assessment levied by the village, and his proceedings and judgments may be reviewed in the same manner as is or shall be provided by law in cases of judgments

and proceedings of justices of the peace; said justice shall receive the same fees and compensation as is provided by law for similar services. The fees and compensation of such justice shall be audited and paid and collected in the same manner, as the fees of justices of the peace for similar services, except in those villages in which there shall be a police justice, and no fees or compensation shall be audited or allowed to any justice of the peace for services performed in any criminal case where the offense was, or was alleged to have been, committed within the limits of any such village, except that the claim for such compensation shall be accompanied in each instance with proof satisfactory to the auditing board that the police justice of said village was disqualified from acting, or was absent from said village at the time the proceedings were commenced before such justice of the peace. It shall be the duty of police justices in such villages to present to the board of supervisors of the county an account for their fees and compensation in all cases when their services in criminal matters would be a county charge if performed by a justice of the peace, and such fees shall be audited and allowed and the payments therefor made to the village paying such police justice his salary. All fines recovered in suits for the violation of the provisions of this act or the by-laws, rules and ordinances of the corporation shall be paid over to the treasurer of the village upon their receipt by such justice. In such last mentioned suits, if judgment is entered, the said justice shall award costs, including witness fees and other legal disbursements, to the successful party to the same amount as a justice of the peace could in civil action, or proceeding before him. Id., § 3, as amd., L. 1878, ch. 59, § 6, and L. 1882, ch. 316.

196. POLICE CONSTABLES; POWERS OF; COMPENSATION.—The persons appointed police constables shall have the power and be subject to the same duties in criminal and civil cases, cognizable by such justice as constables to towns, one of whom shall be chief of police, and all of whom shall be subject to the directions and orders of the president. They shall have the power and it shall be their duty to keep order in all public places in the village; to arrest persons concerned in riotous or noisy assemblages, or who are breaking the peace, or violating this act, or the by-laws, rules or ordinances of the village, and forthwith convey them before the proper authority, to be dealt with according to law, and to keep and retain such persons in custody until committed or discharged. Said police constables shall have power to execute any warrant or process issued by justices of the peace of the county or counties in which such

village is situated. The said police constables shall be paid for their services the same compensation as town constables for similar services, which shall be a charge upon the village, and shall be audited and allowed in the same manner as other village charges, except that when such police constable shall be allowed an annual salary, fixed by the board of trustees; and the trustees of any village incorporated under this act are hereby authorized to fix and establish by resolution to be entered in their minutes an annual salary to be paid to any police constable elected or appointed under this act, which salary shall be in lieu of any fees to which such police constable might otherwise be entitled. Id., § 4, as amd., L. 1878, ch. 59, § 7; L. 1885, ch. 192, § 2, and L. 1889, ch. 229.

197. PEACE OFFICER.—A peace officer is a sheriff of a county or his undersheriff or deputy, or a constable, marshal, police constable or policeman of a city, town or village. Code Crim. Pro., 154, as amd., L. 1882, ch. 360.

198. DUTY OF JUSTICE ON ARRESTS.—When any person shall be arrested by a police constable without process, under section four, title five of the act entitled "An act for the incorporation of villages," passed April twentieth, eighteen hundred and seventy, and such person shall be brought before the proper justice of the peace, such magistrate shall proceed forthwith to hear, try and determine the complaint or charge on which such person is so arrested, and such person shall, upon conviction by the justice, be fined by such magistrate in accordance with any ordinance or by-law of the village, for the punishment of such offense, and imprisonment in the county jail until such fine be paid, not exceeding ten days. L. 1875, ch. 385, § 1.

199. VILLAGE COLLECTOR.—The collector shall collect and receive all taxes and assessments, for which the warrant of the board of trustees, subscribed by the president and countersigned by the clerk, shall be delivered to him, and within the time specified in such warrant, and shall pay the same into the hands of the treasurer without delay, and take receipt for the same, and make return to the clerk of the amount of taxes collected by him and paid over to the treasurer, and of taxes unpaid. The collector shall give a receipt to the clerk for the warrant and tax or assessment rolls delivered to him on his receiving the same. L. 1870, ch. 291, T. 5, § 5.

200. NOTICE OF RECEIVING PAYMENT OF TAXES; COLLECTOR'S FEES.—After receiving the tax-roll the collector shall post notices in five public places in the village, twelve days before the last one of the three days specified in the notice,

stating that he will attend at a convenient place, specified in the notice, in the village, on three days specified, within fifteen days from date of notice, for the purpose of receiving payment of taxes; and he shall attend at such times and place accordingly. Any person or corporation paying any tax or assessment, within fifteen days from date of notice, shall be charged with one per cent thereon for the fees of the collector, and no more. After the expiration of the fifteen days the collector shall collect the taxes or assessments unpaid, with five per cent thereon for his fees, in the same manner as is now provided by law for the collection of town and county taxes, and with like power and authority as collectors of taxes of towns. Id., § 6.

201. PROCEEDINGS FOR DRAINAGE.—The application for draining swamps and lowlands under L. 1869, ch. 888, as amended by L. '90, ch. 557 and L. '92, ch. 321, may be made by the president or board of trustees of any incorporated village on behalf of said village.

CHAPTER X.

TAXES AND ASSESSMENTS.

202. ASSESSMENTS BY TRUSTEES, ETC.—The trustees, whose duty it shall be by this act to act as assessors, must, within sixty days after the annual meeting of the electors of the village, proceed and assess upon the taxable inhabitants and corporations, and property liable to assessment and taxation within the village for village purposes, such sum as they deen necessary, besides funds received and estimated to be received from other sources, to defray the ordinary expenditures of the village for the current year, not to exceed the amount fixed for that purpose in the detailed statement of the trustees present at the annual meeting. Or in case such amount shall not have been so fixed and presented at the annual meeting, then not to exceed the amount which shall be fixed and estimated in like detail, and published in like manner by the trustees within thirty days after such annual meeting. Also any sum directed at an annual election to be raised as an extraordinary expenditure for a special purpose for that year; also the amount to be raised as a highway tax; also the poll tax. In case by reason of any actual or alleged error or defect in the assessment-roll of the last previous year, the taxes authorized and intended to be assessed thereby were not wholly collected, and by reason thereof the amount of taxes raised in such previous year was insufficient to pay the ordinary expenditures of such village authorized by law

and actually incurred, then the trustees whose duty it shall be by this act to act as assessors shall include the amount of such deficiency and the amount paid on such assessment-roll of the previous year in the sum assessed for the current year, but shall credit upon such assessment made against the property of any person or corporation, the amount paid by such person or corporation upon such previous assessment and included in the sum assessed for the current year as aforesaid. Every trustee who shall willfully neglect or omit to make, sign and present at the annual meeting of the electors of the village, a statement as required by section eleven* of title three of this act, shall be guilty of a misdemeanor. L. 1870, ch. 291, T. 6, § 1, as amd., L. 1889, ch. 246, § 1.

203. OMISSION BY TRUSTEES TO PRESENT STATEMENT, ETC.— In case of the omission of the trustees of any village to present to the annual meeting of the electors thereof held within six months prior to the passage of this act, the statement required by section eleven* of title three of chapter two hundred and ninety-one of the laws of one thousand eight hundred and seventy, then the present trustees of such village may make and publish the estimate and statement and make the assessment as provided by section one** of title six of said act, as hereby amended, within thirty days after the passage of this act. L. 1889, ch. 246, § 2.

204. ASSESSMENT OF EXTRAORDINARY EXPENDITURES.— They shall also, within twenty days after any extraordinary expenditure shall have been voted by the legal electors at a special election, proceed to assess the amount in the manner herein directed as to ordinary expenditures. L. 1870, ch. 291, T. 6, § 2.

205. ASSESSMENT-ROLL; REVIEW THEREOF.—The persons acting as assessors shall, on completing the assessment-roll, give ten days' notice, by posting notices in five public places in the village, stating that they will, in the village at a place and time stated, meet to hear and determine all complaints as to such roll. They shall have power and authority at such time to correct such roll as to them shall seem necessary. After the roll shall have been thus submitted, and corrected if necessary, they shall file the same and a copy thereof with the clerk of the village. Id., §3.

206. TAX-ROLL AND WARRANT TO COLLECTOR.— The tax-roll, when completed, shall be immediately delivered by the clerk to the collector, with a warrant thereunto annexed, signed by the president and countersigned by the clerk, commanding him

to collect the taxes therein specified, with his fees, and return said warrant and roll within sixty days after the date of the warrant, unless the time shall be extended. The board of trustees may extend the time for the return of such warrant thirty days beyond the first sixty days, and such extension shall in no event affect the validity of the bond given by the collector and his sureties. Id., § 4.

207. DELIVERY OF COMPLETE ASSESSMENT-ROLL FOR INSPECTION; NOTICE THEREOF.—All assessment-rolls, when finally completed and verified by the assessors, shall, in towns, on or before the first day of September, and in incorporated villages and cities at the time prescribed by their respective charters or laws applicable to them, be delivered to the town, village or city clerk, or other officer, to whom such rolls are or may be required by law to be delivered, and there to remain with such clerk or other officer for a period of fifteen days for public inspection. The assessors or other officers who complete and verify the assessment-roll shall, after they have delivered the same to the said town, village or city clerk or other officer, forthwith give public notice by posting the same in at least three of the most public places, in said town, village or city, or by publishing the same in one or more newspapers published therein, that such assessment-roll has been finally completed, the officer to whom the same has been delivered and the place where the same will be open to public inspection. The fifteen days from which to complete the time within which the application for the writ of certiorari can be made under this act shall be the time when said public notice is first given. L. 1880, ch. 269, § 9.

NOTE. — This act shall not be construed to repeal or abridge any other right or remedy given to review an assessment by any law applicable to any city or incorporated village, or by the charters thereof. Id., § 10.

208. INTEREST ON UNPAID TAXES, ETC.— All taxes or assessments which shall remain unpaid for thirty days after the final return of said warrant shall bear interest at the rate of twelve per centum per annum, from and after the date of said return, and shall be collected as directed herein, either by the sale of the estate assessed as herein provided, or by suit against the party liable to pay such assessment or tax, or the same, if not so collected, shall be added to the amount or sum taxed or assessed against such party or parties to the next annual tax or assessment; and when so added, the total sum or amount shall be collected in the same manner, or either of them, as herein provided. But this act shall not in any manner affect the liability of the collector and his sureties on the bond given by him. L. 1870, ch. 291, T. 6, § 5, as amd., L. 1881, ch. 249.

209. SALES FOR UNPAID TAXES, HOW CONDUCTED.—When any person whose property or estate shall be assessed or taxed shall fail to pay the tax or assessment, and the collector cannot collect the same, and shall make return thereof, the trustees shall cause the estate so assessed to be sold at auction, for a term of time for the payment of such tax or assessment, giving four weeks' notice of such sale, by putting up notices in five public places in the village and serving personal notice on the owner or agent of said estate, if a resident of such village, or on the occupant thereof, and by depositing such notice in the post-office directed to such owner, if a non-resident, at his reputed place of residence, if known, at least ten days before the day of sale, and the same shall be sold to the person who shall take it for the shortest time for the payment of such tax or assessment, with interest at seven per cent and the expense of such notice and sale. Before the time of sale the party liable for the tax, or his representative, may avoid the sale by paying the tax to the treasurer, with twelve per cent interest thereon and expense of notice and sale. Id., § 6.

210. SAME; REDEMPTION.—At any time within a year after such sale the owner or owners of the estate, or their representatives, may redeem the same, by paying to the purchaser thereof (if he shall have paid the tax and interest, and expense of sale), the tax, expenses, and interest thereon at twelve per cent per annum from the date of the payment by the purchaser; in case the purchaser has not so paid them, by paying to the treasurer of the village the tax, expense of sale, and interest at twelve per cent per annum from the time the tax was returned unpaid, and notifying the clerk of said payment. If such tax, expenses and interest are not paid within one year from the date of sale, then the trustees shall deliver to the purchaser of the estate a certificate of such sale, under the seal of the corporation, and signed by the president, the execution of which may be acknowledged or proved as a deed, and upon the receipt of such certificate the purchaser may proceed to serve upon the holder or owner of any lien upon such estate, or any part thereof, notices in writing of such sale, and that, unless redeemed within six months from the time of such service of notice, such certificate may be recorded in like manner and with like effect as in case of other conveyances of real estate. Such certificate shall be presumptive evidence of the statements contained in all courts and places, actions and proceeding. Id., § 7.

211. SAME; WHEN PURCHASER TO OBTAIN TITLE.—The purchaser receiving such certificate, or his representatives, may, in case the land is not redeemed as herein provided, enter into and occupy the same during the term for which it was sold,

and shall be at liberty, within the term aforesaid, to remove all the buildings and materials which he may erect or place thereon. Id., § 8.

212. COLLECTION OF UNPAID TAXES BY ACTION.—In case the collector shall return that a tax or asssessment on any estate is unpaid, and he is unable to collect the same, the trustees are authorized and empowered, after the lapse of thirty days after the date of such return, to prosecute a civil action against the owner or owners of such estate in the corporate name of the village, and recover judgment for such tax, with twelve per cent interest thereon, and all necessary costs and expenses of said action; said trustees may cause a transcript of such judgment to be filed and said judgment docketed in the county clerk's office of the county wherein the village is situated, and the same, however small the amount, shall thereupon become a judgment of the county court and be a lien on all real estate of the judgment debtor situate in the county where said judgment is docketed; and such real estate may be sold on execution issued to the sheriff of the county where the judgment is docketed, if not collected out of the personal property of the debtor, in the manner provided by law; and all the provisions of law in reference to sale and redemption of real estate on execution shall apply to sales and redemptions under this act. Id., § 9.

213. ADDITIONAL APPROPRIATIONS MAY BE MADE.—The appropriate boards or other public bodies or officers authorized by law to make appropriations or to provide for the expenses of public elections, are hereby authorized and empowered to make such additional appropriations or provisions during the year eighteen hundred and ninety as may be found to be necessary to meet such expenses of elections as are made by law a charge upon their respective counties, cities, towns or villages. L. 1890, ch. 330.

214. MONEYS THEREFOR, HOW RAISED.—Such appropriations may either be included in the amount to be raised by taxation upon the property, real and personal, within the county, town, city or village, upon which such election expenses are made a charge by law, or certificates of indebtedness or revenue bonds may be issued or sold at not less than their par value in order to provide the funds necessary to meet such expenses, and the sums requisite to redeem and pay the same shall be included in the tax levy of the ensuing year. Id., § 2.

215. TAX ON PIPE LINE.—The real estate and personal property belonging to any pipe line corporation in this State, shall be assessed and taxed in the several towns, villages and cities in the same manner as the real estate and personal

property of railroad corporations are assessed and taxed, and such corporation may pay taxes or commute therefor in the same manner as railroad corporations. L. 1890, ch. 566, § 54.

CHAPTER XI.

HIGHWAYS AND STREET IMPROVEMENTS.

216. COMMISSIONERS TO DETERMINE DAMAGES ON ACCOUNT OF ALTERATIONS, ETC.—Whenever the grade of any street, highway or bridge in any incorporated village in this State shall be changed or altered so as to interfere in any manner with any building or buildings situate thereon, or adjacent thereto, or the use thereof, or shall injure or damage the real property adjoining such highway so changed or altered, the owner or owners of such building or real estate may apply to the Supreme Court in the judicial district in which such property is situated for the appointment of three commissioners to ascertain and determine the amount of damage sustained thereby; due notice of such application shall be given to the person or persons having competent authority to make such change or alteration. L. 1883, ch. 113, § 1.

21 St. Rep., 953; 32 id., 967; 50 Hun, 585; 29 St. Rep., 699; 121 N. Y., 704; 70 Hun, 583; 53 St. Rep., 832.

217. DUTY OF COMMISSIONERS.—All the provisions of the condemnation law relative to the appointment of commissioners, their powers, duties, fees and expenses, shall be applicable to the appointment of, and the powers, duties, fees and expenses of the commissioners appointed in pursuance of the provisions hereof; but it shall be the duty of said commissioners in assessing and ascertaining the damages sustained by property owners adjoining such street or highway to take into consideration and to ascertain the value of any benefits or advantages to the property in consequence of the alteration of the grade; and in all cases the value of such benefits or improvements shall be offset against and deducted from the damages; and no person or property owner shall be entitled to recover any damages who shall, in writing, request or assent that the said grade of any such street shall be changed or altered. Id., § 2, as amd., L. 1894, ch. 172.

218. DAMAGES TO BE A CHARGE UPON THE VILLAGE. All damages ascertained and determined under the provisions of this act, together with the costs of such proceedings, shall be a charge, when allowable, upon the village, town or other municipality chargeable with the maintenance of the street, highway or bridge so altered or changed; but no property owner or person

instituting proceedings to recover damages under the provisions of this act shall be entitled to costs, unless the claim for such damages shall have first been presented to and rejected by, or neglected to have been adjusted for thirty days after presentation by the trustees or other proper officers of said village, town or municipality, nor in case such trustees or other proper officers shall have made an offer to settle or compromise such claim, which offer is declined by said property owner, unless he shall recover more than is so offered ; and in case he fails to recover any damages, or less than offered, he shall be liable for the costs of such proceeding. When either party is entitled to costs under this section, they shall be the same costs, and at the same rates as prescribed in the condemnation law, and the court may grant an additional allowance of costs to the prevailing party at the same rates as provided by the condemnation law Id., § 3, as amd., L. 1894, ch. 172.

219. INCORPORATED VILLAGES TO BE SEPARATE. ROAD DISTRICTS ; TRUSTEES TO BE HIGHWAY COMMISSIONERS; STREET IMPROVEMENTS.—A village incorporated under this act, shall constitute a separate highway district within its corporate limits, exempt from the superintendence of any one except the board of trustees, who shall be commissioners of highways in and for such village, and shall have all the powers of commissioners of highways of towns in this State, subject to this act, and, as such, they shall have power to discontinue, lay out, open, widen, alter, change the grade, or otherwise improve roads, avenues, streets, public parks or squares, lanes, crosswalks and sidewalks ; and for that purpose may take and appropriate any land in said village ; but no road, avenue, street, lane or sidewalk, shall be opened or altered, unless all claims for damages on account of such opening or altering shall be released without remuneration, except on the written petition of at least ten freeholders, residing in said village, which petition shall specify the improvement to be made, describe the land to be taken, state the owner or owners thereof, when known, and shall be filed in the office of the clerk of the village. On the presentation of such petition the trustees shall, and must meet, and examine the same, and, if they decide the improvement shall be made, they shall so decide by resolution, to be entered in the minutes of the board ; and they shall thereupon put up, in five public places in said village, a correct description of the lands to be taken to make such improvement, and a notice that the trustees, at a place and on a day, and at an hour therein specified, not less than five days from the date and posting thereof, will meet and hear any objections that may be made to the taking of such land, or making such improvement ; a copy of which notice must be served on the

owner or owners of such land, at least five days before said meeting, unless said owner is a non-resident of such village; in which case, said notice and description must be deposited in the said village post-office directed to said owner, at least twenty days before such meeting. Any person interested may be heard, and introduce testimony before the board of trustees as to the matter, on the day specified in the notice, or on such other days as the board may appoint. After such hearing, the trustees may deny the petition, or approve and declare by resolution, to be entered in their minutes, their intention to make the said improvements, and proceed to obtain possession of the lands described, in the manner provided by this act. L. 1870, ch. 291, T. 7, § 1, as amd., L. 1871, ch. 870, § 3.

6 N. Y. St. R., 121; 10 id., 743; 7 Lans., 434; 32 Hun, 508; 41 id., 270; 46 id., 134, 136; 100 N. Y., 343; 101 id., 667; 102 id., 81, 84.

220. DAMAGES FROM STREET OPENING, ETC., HOW DETERMINED.—Whenever any road, avenue, street, square or park, lane or sidewalk, is opened or altered, the damages claimed by reason thereof may be determined by agreement between the board of trustees and the persons claiming such damages; but in case the damages are not so determined or released, the board shall, on being notified by the president, as in the case of a special meeting, or at a regular meeting, meet and cause a jury of six freeholders to be summoned to determine and award said damages; the said jury shall be selected as follows: The said board of trustees shall prepare a list of the names of twelve freeholders of the village, in no wise of kin to the applicants, owners or occupants, or any or either of them, and not interested in the lands proposed to be taken; the said board shall cause a copy of such list, with a notice that a meeting will be held at some convenient time and place within the village, for the purpose of selecting the jury from such list, to be served on each of said owners at least three days before the time of said meeting, if residents of the village, and if not residents, then by sending such notice by mail at least six days before such meeting, directed to such non-residents at their places of residence, if known. At the time and place mentioned in said notice, the board of trustees shall meet, and the owners of the land may strike from the said list not more than six names, and of the number which remain, the six names standing first upon the list shall be the jury. The said board of trustees shall fix the time and place for the first meeting of the jury, and five days' notice thereof shall be given to the owner or owners of the land, if residents of the village, and if not such residents, then notice shall be served ten days before such meeting, by mail, directed to such non-resident owners at

their places of residence, if known; the jury shall be sworn by any notary public, or other officer authorized to administer oaths in said village, faithfully and impartially to execute their duty; they shall examine the premises, hear the proofs and allegations of the parties and reduce the testimony, if any, to writing; and they shall, by a majority vote, rule upon and decide all questions raised concerning the admissability of evidence offered and objected to before them. The jury shall determine and award the owner or owners of such lands such damages as they will sustain by the proposed alteration or improvement, after making allowance for any benefit which the owner or owners may derive therefrom. The determination and award of the jury shall be signed by them and filed in the office of the village clerk, and a copy served on the persons entitled to such award. If no appeal is made within twenty days from the time of such service, the determination and award of such jury shall be final and conclusive on all persons interested; a copy of such award certified by the clerk, under the seal of the village, shall be evidence of the same in all courts and places, and in all actions and proceedings. Id., § 2, as amd., L. 1893, ch. 694.

NOTE.— This act applied to all proceedings then pending.

221. TRUSTEE NOT TO BE INTERESTED.— No trustee who is interested in any lands taken for such alteration or improvement shall act with the trustees when sitting as a board to determine the damages, or to summon the jury to award damages, for taking such land. Id., § 3.

222. APPEAL FROM AWARD OF DAMAGE; PROCEEDINGS THEREON.—Any person interested therein, may within twenty days after notice of the award of the jury, appeal from such award by petition to the county judge of the county where such village is situated, or in case such village shall be located in two or more counties, then to the county judge of either of said counties, praying for the appointment of three commissioners residing in said county, to review said award of said jury. The person appealing shall execute a bond to the village in its corporate name in the penal sum of two hundred and fifty dollars, with two sureties who shall justify in twice the amount, conditioned for the payment of the fees of the said commissioners and costs of appeal, in case the award of the jury shall not be increased twenty dollars by said commissioners to each party appealing. Filing such bond with, and serving a copy of said petition, with a notice of the time when and place where the same will be presented to the said judge or the village clerk, shall operate as a stay of proceedings until the decision of the commissioners thereon. All persons appealing from the award of the jury for damages, as to one single and continuous

alteration or improvement, shall join in one petition, and may execute a joint and several bond in two hundred and fifty dollars, with sureties and conditioned as hereinbefore mentioned, and there shall be but one board of three commissioners appointed to review the award of such jury. At the time mentioned in the notice, and when the commissioners are appointed, any person may be heard in the matter. The said judge shall, on hearing the parties, appoint three disinterested electors as commissioners, residing in said county, but not in the village, to review the award of said jury, and determine and award the damages of the person or persons appealing. Immediate notice shall be given by some of the persons appealing to the persons designated as commissioners, and if any one declines or is disqualified, the judge shall appoint some disinterested person, an elector residing in said county but not in the village, to fill the vacancy. Said commissioners shall meet at such village within ten days after being notified of their appointment. They shall give the president of the village five days' notice of the time and place of their meeting, shall be sworn to do their duty, shall have power to compel attendance of witnesses by subpoena, shall examine the premises and hear the proofs and allegations of the parties, and shall award such damages to the parties appealing as they shall deem just. The award of the commissioners shall be signed by them and be returned to the president of the village within fifteen days after the first meeting of the commissioners, and shall be filed with the clerk. Said award shall be final and conclusive on all persons interested, and the board of trustees may thereupon take possession of the land and make the said alteration or improvement. On declaring the award the commissioners shall each be paid by the treasurer of the village, three dollars per day for their services, and the amount so paid shall be collected by suit if not otherwise paid, with other proper expenditures made by and for the village in and about such appeal, on the bond referred to in this section, given by the person or persons appealing. in case the person or persons appealing are liable to pay the costs of the appeal under the provisions of this act. In all cases of appeal under this section the judge to whom the appeal is made shall, by order, appoint guardians for any infant, lunatic or idiot interested in said proceedings. Id., § 4, as amd., L. 1878, ch. 59, § 8.

223. ASSESSMENT OF DAMAGES; PAYMENT OF AWARDS.— Whenever a final award is made for damages sustained by reason of making such alteration or improvement, the persons acting as assessors may, within twenty days thereafter, assess the amount of such damages upon the estates, real and

personal, in said village, and make out an assessment-roll of such damages, which assessment-roll shall be signed by the president and filed with the clerk and be collected in the same manner as the annual tax is collected, and the trustees shall, within one year from the time of such final award, pay or tender the amount of such damage to the persons to whom the same shall have been awarded; and in case such owner shall refuse the same, or be unknown, or a non-resident of said village, idiot or lunatic, or the rights and interests of persons claiming the same shall be doubtful, it shall in such cases be lawful for the board of trustees to pay the amount of such damages to the county treasurer of the county where said lands are situated, for the benefit of such person or persons as may be entitled to the same, accompanied by a statement of the facts under which such payment was made. The board of trustees shall cause the clerk of said village to make an entry in the village records of the money deposited stating amount, with the names of the parties by the awards declared to be entitled to the same. On the proper person or persons being ascertained who are entitled to receive such money, the president of the village is authorized to draw an order on said county treasurer, countersigned by the clerk, and payable to the order of the person or persons entitled to such money, for the amount due such person or persons. Id., § 5.

39 Hun, 240, 242; 46 id., 134.

224. COURT MAY ORDER CROSSING OF TRACKS, ETC., BY STREET SURFACE RAILROAD COMPANIES.— Whenever the railroad or route of any street surface railroad corporation shall intersect and cross, or shall cross the tracks and roadbed of any railroad, operated by locomotive, steam or other power, which are laid in, across or upon the surface of any street, avenue, road or highway in any city, town or village of the State, having less than five hundred thousand inhabitants, and such street surface railroad corporation having been unable to agree with the corporation owning the tracks and roadbed so intersected or to be intersected and crossed, as to the line or lines, grade or grades, points or manner of such intersection and crossing, or upon the compensation to be made therefor, shall have applied to the court by petition to appoint commissioners to determine the same, the court shall upon application made by such street surface railroad corporation, at, or after, the time of the appointment of such commissioners, or if an answer to the petition of such street surface railroad corporation has been interposed, at any time thereafter, direct that such street surface railroad corporation, be permitted to lay its tracks across and to intersect, upon the surface of the street, avenue, road or high-

way, the tracks and roadbed of such railroad operated by locomotive, steam, or other power, provided, such street surface railroad corporation shall at the time of obtaining such order make and file with the clerk of said court, its bond or undertaking in writing, in an amount and with surety or sureties to be approved by the court, conditioned for the full and faithful performance by such street surface railroad corporation of any and all conditions and requirements which may be imposed by said commissioners and be affirmed by the court, in determining the line or lines, grade or grades, points or manner of such intersection and crossing and as to the amount of compensation to be paid therefor, and also conditioned to conform such crossing and intersection made by virtue of such order of the court to the requirements made by said commissioners as affirmed by the court.

§ 2. No street surface railroad shall be allowed to lay its tracks at grade across the tracks or roadbed of any railroad operated by locomotive steam power at any point where there are three or more tracks of the steam road proposed to be crossed, which tracks have been constructed and in operation at least two years, unless the written consent of the state railroad commissioners be first obtained for such crossing at grade. But this section shall not affect the operation of section one of this act in any suit or proceeding now pending nor any renewals of said pending suit or proceeding brought for any cause. L. 1893, ch. 239.

225. TUNNELING STREET.—The tunneling of streets in villages is governed by L. 1890, ch. 565, and requires the consent of the board of trustees and the consent of the owners of one-half in value of the property bounded on the line of the street, etc.

226. ISSUE OF VILLAGE BONDS FOR RAISING MONEY FOR HIGHWAY IMPROVEMENTS.—Any village, whether incorporated under a special charter, or the general act of incorporation of villages, situated in any town in which there has been condemned or appropriated for the purpose of a public park or parks, more than one-fourth in value of the taxable property, as the same appears by assessment-roll last adopted prior to such condemnation or appropriation, may after the election in the manner hereinafter provided, issue its bonds or obligations for a sum not exceeding ten per centum (in addition to the sum for which any village of the kind hereinbefore described, may at the time of the special election hereinafter provided for, legally issue its bonds or other obligations) of the assessed valuation of the real estate in the said village, as the same appears by its last assessment-roll. No bonds shall be

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issued hereunder, however, until the president of any such village shall have received a request in writing signed by at least ten resident freeholders of said village, to call a special election of the taxpayers thereof to determine whether there shall be raised the sums named in the said request which must not exceed the aforesaid sum of ten per centum of the assessed valuation of the real estate within the said village (in addition to the sum for which any village of the class hereinabove described, made by general or special act, be allowed to issue its bonds). Within five days thereafter he shall call such special election, and shall designate the time and place of the said special election, which call shall be posted ten days prior to the date of said election, in at least five conspicuous places in said village. But no defect in the said request or notice or in any other matters excepting the actual vote of the taxpayers hereinafter provided for shall be deemed to invalidate the bonds hereby authorized. L. 1892, ch. 640.

227. At the opening of such election it shall be the duty of the village clerk to produce from his office the last preceding assessment-roll, or a certified copy thereof, and to keep the same at place of said election for the inspection of any taxpayers until the polls are closed. At such election the polls shall be open from twelve o'clock, noon, until sunset, and the inspectors of election shall be the trustees of said village or a majority of them. No person shall be allowed to vote at the said election unless such person be a citizen of the United States and a resident freeholder of the said village at the time of said election, and liable to be assessed for taxation within the said village. The question of raising the said sum mentioned in the said call for the president shall be voted upon by ballot. The ballots to be voted at the said election shall contain the words "for raising money for highway improvements" or "against raising money for highway improvements." In case the majority of the votes cast shall contain the words "against raising money for highway improvements," no further meeting or election shall be called for a similar purpose within twelve months thereafter. Id., § 2.

228. APPOINTMENT OF ROAD COMMISSIONERS.—In case the majority of the votes cast shall contain the words "for raising money for highway improvements," the board of trustees of said village shall within ten days thereafter appoint two persons who shall, with the street commissioner, be road commissioners; they shall serve without compensation and shall constitute the board of road commissioners. The said commissioners shall be residents, freeholders and electors in the said village, shall hold no other office therein (except the street commissioner,

who shall continue to hold office) and shall be removable by the board of trustees only for cause shown after having been heard in their own defense. Each of said commissioners shall within twenty days after his appointment file his bond in the office of the village clerk for the penal sum of five thousand dollars, with at least two sureties who shall justify in a sum double the amount of said bond, conditioned for the faithful performance of his duties. Each of said bonds shall be approved as to its form and the sufficiency of the sureties, by the board of trustees of said village. The board of trustees of said village shall fill all vacancies in said commission which from time to time may occur. Id., § 3.

229a. FORM OF BOND; SALE, ETC.—The said village bonds or obligations shall be in such form and of such denomination as the president of the village may deem best and shall be signed by him and by the village clerk. They shall become due between ten and twenty years from the date thereof and shall bear interest at a rate of not more than four and one-half per centum per annum, payable semi-annually. Not more than four thousand dollars of the principal sums of said bonds shall become due and payable in any one year. The president shall deliver said bonds to the said commissioners for sale by them in accordance with the provisions of this act. The said bonds shall be sold to the highest bidder for not less than their par value at a public sale, notice of which shall be published for not less than two weeks in two newspapers in the county wherein said village is situated, and in the daily newspaper published in the city of New York, to be designated by said commissioners, for at least ten consecutive days preceding the day of the sale Said notice shall state that on the day of sale at a certain place and specified hour, the said board of commissioners will receive sealed proposals for the purchase of said bonds or of so many of them as may be offered for sale All such proposals then received, shall be then and there opened by said board, and the proposals offering to purchase said bonds at the highest price shall be accepted by said board unless the said board deem it for the interest of said village to reject the same, in which case the said board may reject all of said proposals and readvertise said bonds for sale, in the same manner as aforesaid. The expense of preparing the said bonds shall be a village charge and shall be levied and collected in the same manner as other village charges. Id., § 4.

229. PROCEEDS, HOW EXPENDED.—Said commissioners shall have the power to expend the proceeds of said bonds for the repair and improvement of all highways, streets, wharves, docks and public places within said village, which in their opinion are in need of such repairs and improvements and shall have authority to employ a competent engineer to advise them in the perform-

ance of their duties, and all work done under the direction of the said commissioners shall be given out by contract after advertisement and may be awarded to the lowest bidder. The commission may, if it deem best, reject any or all bids. No member of the board of road commissioners shall be interested in any contract, made under the provision of this act. Id., § 5.

230. The commissioners mentioned herein shall, within ten days of filing their bonds as aforesaid, meet with the street commissioner of said village and organize as a board by electing one of their number president of such board. The proceeds of the sale of the bonds, as heretofore provided, and also all money raised by taxation to pay the interest of the principal of said bonds shall be deposited with and under the care of the treasurer of said village and credited to a separate fund called the "road fund" of said village. All expenditures authorized to be made by the board of road commissioners of any village by virtue of this act, shall be paid by the treasurer of said village upon the order of said board of road commissioners, signed by the president of said board and countersigned by the clerk of said board. Id., § 6.

231. The board of trustees of said village shall levy and assess upon the taxable property of said village from year to year such sums as may be necessary to meet the interest upon the said bonds, and upon maturity of the said bonds such money as may be necessary to pay the principal thereof. Id., § 7.

232. All acts or parts of acts, general or special, inconsistent herewith, are hereby repealed. Id., § 8.

233. FENCE VIEWERS.—The duties of fence viewers are detailed in the Town Law. Villages and cities are deemed towns for the purpose of that law, and the trustees of the village shall be fence viewers therein. L. 1890, ch. 569, § 134.

234. ERECTION AND CONTROL OF TOWN-HOUSE.—Sites shall be purchased and houses erected by the town board in the name of the town, and shall be controlled by the town board; and the electors may, from time to time, vote such sum of money as may be necessary to keep any town-house in repair and insured, except where the building is to be erected within the limits of an incorporated village and the town is to contribute but a part of the expense of erecting the building, in which case the town board and the board of trustees of the village shall agree upon the terms and conditions of the use, management, control and repair of the portion of the town-house for town and village purposes respectively. Id., § 191.

235. PIPE LINE COMPANIES.—No pipe line shall be constructed into or through any incorporated village or city in the

State, unless authorized by a resolution prescribing the mode, manner of construction and terms upon which granted, adopted at a regular meeting of the board of trustees of the village or the common council of the city by a two-thirds vote of such council, but such resolution shall not affect any private right. See L. 1890, ch. 56.

CHAPTER XII.

VILLAGE WATER-WORKS.

236. BOARD OF WATER COMMISSIONERS.—The authorities of any incorporated village in the State may hereafter organize into a board of water commissioners in the manner by this act provided. L. 1875, ch. 181, § 1.

5 N. Y. St. R., 172; 1 Hun, 311; 92 N. Y., 368; 101 id., 9; 29 St. Rep., 284; 30 id., 156.

237. BOARD, HOW CONSTITUTED; DUTY OF COMMISSIONERS; VACANCIES.—For the purpose of this act said authorities are hereby defined to be in villages as follows, namely: First, the president and trustees thereof. The terms of office of said commissioners shall respectively continue for the terms for which said authorities shall be or shall have been respectively elected; or second, the same number of commissioners as hereinbefore provided for, to be elected by the residents of such village, qualified to vote for trustees, at a special election to be called by the trustees of such village on the written request of a majority of the resident taxpayers of said village, whose names appear on the last assessment-roll of said village, for the purpose of electing said commissioners. The trustees shall give notice of said special election in the same manner as provided for in section twenty-one of the act hereby amended. Said election shall be by ballot. The said board of trustees, or any of them, shall preside at and certify the result of said election, which shall be conducted in the same manner as an annual election for trustees; provided, however, that all such water commissioners shall be elected at large in said villages, and not by any ward, district or division thereof. The clerk of the village shall forthwith serve upon the commissioners elected notice of their election, and they shall, within five days thereafter, make and file with said clerk an official oath that they will faithfully discharge the duties to the office to which they have been elected. No person shall be eligible to the office of commisssioner unless eligible to the office of trustee. Said commissioners shall, at their first meeting, divide themselves by lot into three classes, whose terms of office shall expire respectively in one, two and threee years from the next

succeeding annual election of such village. From and after the said special election the election of successors to said commissioners shall take place at the annual election of said village. Vacancies in the board of water commissioners, caused by death, resignation or otherwise, shall be filled by the board of trustees of such village, the appointee to hold office until his successors shall be elected at the next annual election and shall have qualified; provided, however, that this act shall not impair or affect nor be construed to repeal any of the provisions of chapter eighty of the laws of eighteeen hundred and eighty-two, entitled "An act to provide for a separate board of water commissioners in the village of Suspension Bridge, Niagara County, in the place of the trustees of said village, the mode and time of their election, and defining their powers, duties and term of office," nor of the acts amending the same. Id., § 2, as amd., L. 1885, ch. 170, and L. 1891, ch. 74.

101 N. Y. 12.

238. HOW BOARD ORGANIZED; OFFICERS; RULES; SPECIAL ELECTIONS.—Whenever a majority of said authorities, in a village, shall deem it advisable to organize as a board of water commissioners, they shall certify the same in writing to the clerk of the village, who shall thereupon, and within five days thereafter, notify said authorities, in writing, to attend a meeting to be held within five days thereafter, for the purpose of organizing as a board of water commissioners. At the time and place named in said notice said authorities, or a majority of them, shall meet and organize by electing one of their number president of the board. They shall also elect from their number a secretary and treasurer. Such board may make all necessary rules and regulations for its government and the transaction of its business. The treasurer shall give a bond, with sufficient sureties, for the faithful performance of the duties of his office, in such amount as may be determined by the board of commissioners, to be approved by said commissioners. The board of trustees of any village, at their option, either before or after said authorities shall have organized as a board of water commissioners, in place of acting themselves as a board of water commissioners, may cause the president of their board to appoint commissioners, three or more in number, subject to confirmation by a majority of said trustees, to take charge of and to carry on the water-works then belonging to the village, and to erect, build and to carry on and take charge of a new system of water-works, or additional water-works for such village as a board of water commissioners, under the provisions of this act and the amendments thereto, which commissioners shall determine by lot their terms of service; one-third of whom shall serve for one year, one-third for two years,

and one-third for three years from and after the next annual election of such village. The successors of the appointed commissioners shall be elected at each annual election of the village held just prior to the time for the expiration of the term of service of each commissioner, as other village officers are elected, to hold their office for three years from and after such election. No commissioner shall be eligible to such office unless he be a resident, legal voter and a holder of real estate in fee simple in his own name, taxed to him on the last assessment-roll of such village. The said board of water commissioners so appointed or elected shall have the same powers and be subject to the limitations as provided for by this act, and the amendments thereto for other boards of water commissioners. Each commissioner appointed or elected as aforesaid shall before acting as such commissioner take the oath of office, and file a bond as provided for in section nine of this act. Such appointed commissioners and their successors shall act without pay for their services. It shall be the duty of the board of president and trustees of the village, at the request of the board of water commissioners, to call a special meeting or meetings of the voters and taxpayers whose names appear on the last assessment-roll of the village, on the question of taxation for the water debt or expenses as provided for in section twenty-one of this act. Vacancies in such board of water commissioners shall be filled as provided for by this act for vacancies in boards of water commissioners. Id., § 3, as amd., L. 1894, ch. 318.

237. DUTIES OF COMMISSIONERS AS TO SUPPLY OF WATER; TO ACQUIRE TITLE TO LAND.—It shall be the duty of the commissioners to examine and consider all matters relating to supplying the village with pure and wholesome water; they shall have power to employ engineers, surveyors, and such other persons as shall be necessary for that purpose; they shall adopt such plans as, in their opinion, may be most feasible for procuring such supply of water, and they may at any time before the appointment of commissioners of appraisal as hereinafter provided amend the same. Such plans shall embrace proper distribution pipes and supplies for all streets and places where in their opinion it shall be of interest to the village for domestic purposes or for protection against fire, and shall ascertain the probable amount of money necessary to carry the same into effect; they shall have power to contract for, purchase and take by deed, or other instrument under seal, in the name of said village all lands, streams, water, water rights, or other property, real or personal, or rights therein, situate at any place within the county or counties in which said village may be situated, which may be required for the purpose, and also the right to lay, relay and maintain pipes

through lands and to take, detain or divert water or streams of water which may be required for the purpose without taking the fee of the lands through which the pipes are laid or over which such streams or water flow, and to contract for the execution of the work, or any part thereof, or the supply of any necessary material; and in case it shall at any time be deemed necessary by the said water commissioners for the purpose of enlarging, improving or perfecting the supply of water undertaken to be provided pursuant to said act, or the source, means or mode of supply, to acquire any additional lands, streams, water or water rights or other property, real or personal, or rights therein, said commissioners shall have power to contract for or purchase or acquire the same and also the right to lay, relay and maintain pipes through lands and to take, detain or divert water or streams of water which may be deemed necessary by the said commissioners without taking the fee of the lands through which the pipes are laid or over which such streams or water flow in the like name and manner and with like effect as is provided by said act, for taking or acquiring any such property or rights in the first instance; and the commissioners and their servants and agents are authorized to enter upon any lands, streams or water for the purpose of making surveys and to agree with the owner of any such property or right which may be deemed necessary for the purposes of this act as to the amount of compensation to be paid such owner, subject to a revision by the court upon the application of any three taxable inhabitants of the village. Id., § 4, as amd., L. 1881, ch. 175, § 1; L. 1883, ch. 255, § 1, and L. 1885, ch. 211, § 1.

240. SAME; PROCEEDINGS; FURNISHING WATER; MAP AND SURVEY TO BE MADE; MAY TAKE ADDITIONAL LANDS.—Before entering upon, detaining, taking, diverting or using any lands, streams or water or rights therein for the purposes of said act, said water commissioners shall cause a survey and map to be made of the lands, water or streams intended to be taken, diverted or affected, or in which a right is intended to be taken for any of said purposes, on which map the land, streams or water of each owner or occupant shall be designated, and which map shall be signed by the president of said board of water commissioners and their said secretary, and be filed in the office of the county clerk of the county or counties in which said lands, streams or attached to and filed with said map, describe the lands, streams or water, and the title and interest therein, which they intend to acquire for the purposes of such improvement. Any map and order heretofore or hereafter filed under the provisions of said act, may be amended in the discretion of the said water com-

missioners, at any time before the appointment of commissioners of appraisal as in the next section provided, by filing in the said county clerk's office a new or further map and order conforming in all respects to the requirements of this section, together with a notice, signed by the president of said water commissioners, that the said map and order then on file have been amended, and thereupon the said new and further map and order shall have the force and effect of the map and order so amended, and the map and order last named shall be deemed withdrawn, except as far as they relate to proceedings and acts already had and done. Whenever said water commissioners shall deem it necessary to take, detain or divert any additional lands, streams or water or rights therein, they shall make, or cause to be made, and file a like map and order, in the same place, and authenticated in the same manner as is required in taking like property or rights in the first instance, showing and describing such additional lands, streams or water and the rights, title and interest therein intended to be taken; at any time within one year after the filing of any such map and order or amended map and order, said water commissioners may take possession of such lands, streams or water, or of the right, title or interest therein intended to be taken as specified in said order or amended order, or of any part thereof, and use the same for the purposes of such improvement, without any suit or proceeding at law; provided, however, that within the time last aforesaid they shall, if they do not agree with the owner or owners thereof as to the compensation to be paid therefor, commence proceedings as provided in the next section, to acquire such title; and the credit of the village, for the benefit of which said improvement is undertaken, shall be, and hereby is, pledged for the payment of the compensation for the property so taken. Id., § 5, as amd., L. 1885, ch. 211, § 2.

241. SAME: CONDEMNATION PROCEEDINGS.—Whenever any such board of water commissioners is unable to acquire by agreement any lands, streams, water or other property, or the right, title or interest, if any, less than a fee in land or the right to use and divert any water or streams required or deemed necessary for the purposes contemplated by the said act, it shall have the power to acquire the same in the manner and by the proceedings prescribed in the following subdivisions:

1. Said board of water commissioners for the purpose of acquiring the lands, streams, water or other property or right, title or interest, if any, less than a fee in land, or the right to use and divert any water or streams, which may be deemed necessary by them, shall present a petition to the supreme court at any special term thereof held in the judicial district in which

the property described in the petition is situate, praying for the appointment of commissioners of appraisal; such petition shall be signed and verified by the president or a member of said board, and shall describe the lands, water, streams or other property and the right, title or interest, if any, less than a fee in land, and the right to use and divert any water or streams which said board desires to acquire, and shall give the names and places of residence of the owners and occupants thereof so far as the same are known to said board of water commissioners, and must state in effect that such board of water commissioners have duly organized, and entered upon the discharge of their duties, and that the right to appropriate, use and occupy the lands, streams or water or other property, or the right, title or interest therein mentioned and described in said petition is necessary for the purposes of the proposed improvement, and that such board of water commissioners has not been able to acquire the lands, streams, water or other property, or the right, title or interest therein required from the owner or owners thereof, or to agree with them in respect to the compensation to be paid therefor, and the reason of such inability, and that the provisions of said act have been complied with. A copy of such petition with notice of the time and place the same will be presented to said court, must be served on all owners and occupants of said lands, streams, water or other property, or the right, title or interest therein required, at least ten days prior to the presentation to said court of said petition.

2. If the person on whom such service is to be made resides in this State and is not an infant, idiot or person of unsound mind, and the place of such residence is known to the water commissioner, such service shall be made personally, or by leaving the same at the usual place of residence of the person to be served, with some person of suitable age.

3. If the person on whom such service is to be made resides out of the State and has an agent residing in this State, known to said water commissioners, and authorized to contract for the sale of such property so to be acquired, such service may be made on such agent in the manner prescribed by subdivision two, or in such other mode as the court may direct.

4. In all cases not herein provided for, service of notices, orders and other papers in such proceeding may be made as such court or any judge thereof shall direct.

5. On presenting such petition to said court, with proof of service of the same and of such notice as hereinbefore provided, all persons so served, and all whom the court may permit to intervene, may show cause against granting the prayer of the petition and may disprove any of the facts alleged in it. The

court shall hear the proofs and allegations of the parties, and if no sufficient cause is shown against it, an order shall be made appointing three disinterested and competent persons, who reside in the county where such property or some part thereof is situate, and who shall be freeholders, as commissioners to ascertain and appraise the compensation to be made to the owner or owners of the lands, streams, water or other property, or the right, title or interest therein sought to be acquired, and fix the time and place for the first meeting of such commissioners of appraisal.

6. The commissioners of appraisal shall take and subscribe the oath prescribed by article twelve * of the Constitution of the State. They shall have power to call witnesses, examine them, and to adjourn the proceedings from time to time in their discretion. Whenever they meet, except by appointment of the court or pursuant to adjournment, they shall cause reasonable notice of such meeting to be given to the parties who have appeared on such appraisal of their attorney. Any one of said commissioners may issue subpoenas for and administer the usual oath to the witnesses. They shall view the lands, streams, water or other property described in the petition and hear the proofs and allegations of the parties, and after the testimony is closed and without unnecessary delay, they shall meet, ascertain and determine the compensation which ought justly to be made by said board of water commissioners to the party or parties owning the lands, streams, water or other property or the right, title or interest therein, to be appraised by them; and in determining the amount of such compensation, they shall not make any allowance or deduction on account of any real or supposed benefits which the owner or owners may derive from the proposed improvement. They, or a majority of them, shall also determine and certify what ought to be paid to any special guardian of an infant, idiot, or person of unsound mind, or to an attorney appointed by the court to attend to the interests of any unknown owner not personally served with notice of the proceedings and who has not appeared, for costs, expenses and counsel fees. They shall make a report to the supreme court, signed by them, or a majority of them, of the proceeding before them, and transmit therewith the minutes of the testimony, if any. Said commissioners of appraisal shall each be entitled to receive five dollars for their expenses and services for each day they are necessarily engaged in such duties, to be paid by the board of water commissioners.

7. On such report being made, the said board of water commissioners shall give ten days' notice in writing to the parties who have appeared or to their attorneys, that at a special term

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* *Ante*, 44a.

of the supreme court, at a time and place designated in said notice, a motion will be made for the confirmation of said report, and the court may thereupon confirm such report and make an order reciting the substance of such proceedings and a description of the lands, streams, water or other property, or any right, title or interest therein which has been appraised in such proceeding, and directing to whom such compensation is to be paid, or where or in what manner it shall be deposited.

8. Such order or a certified copy thereof shall be filed and recorded in the office of the clerk of the county or counties in which such property or some part thereof is situate, and thereupon and on payment or deposit of the sums to be paid as compensation as aforesaid, and for costs, expenses and counsel fees, the said village shall be entitled to hold and divert in perpetuity said lands, streams, water or other property, or the right, title or interest therein, so appraised for the purposes contemplated by said act, and all rights of action by reason of such holding and diversion shall be forever barred. All lands streams, water or other property, or any right, title or interest therein acquired for the purposes contemplated by said act, shall be deemed to be acquired for public use. Within twenty days after the confirmation of the report of the commissioners of appraisal, either party may appeal, by notice in writing to the other, from the appraisal and report of the commissioners of appraisal to a general or special term of the supreme court held in the department in which such property is situate. Such appeal shall be brought on for argument and be heard according to the rules and practice of said court in similar proceedings. On the hearing of such appeal, the court may affirm such report or direct a new appraisal before the same or new commissioners in its discretion, and the second hearing, determination and report shall be made in like manner as the first. The second report shall be final and conclusive upon all parties interested. If the amount of compensation to be paid by said board is increased by the second report, the difference shall be paid by said board to the persons entitled to the same, or shall be deposited as the court may direct. If the award has been paid and the amount thereof shall be diminished, the difference shall be refunded by the party who has received the same, and judgment therefor may be rendered by the court on the confirmation of said second report against the parties liable to refund the same, and in favor of said board, which judgment shall be docketed and enforced in the same manner as judgments in civil actions.

9. If there are adverse and conflicting claims to the money to be paid as compensation as aforesaid, or any part thereof, the

court may direct the money to be paid into court, and may determine who is entitled to the same, and to whom the same shall be paid, and may, in its discretion, order a reference to ascertain and report the facts.

10. The court shall appoint some competent attorney to appear for and protect the rights of any unknown owner or of any owner whose residence is unknown, and who has not appeared in such proceeding. The court may, also, upon application by or on behalf of any infant or person of unsound mind who as owner or owners are interested in the lands, streams, water or other property, or the right, title or interest therein, to be acquired, or in default of such application, then at the time of the presentation of the petition, upon the application of the board of water commissioners, appoint some suitable person as special guardian of such infant or person of unsound mind, who shall appear and care for the interests of such infant or person of unsound mind. The court shall also have power, at any time, to amend any defect in any proceeding authorized by this act; or cause new parties to be added, or such further notice to be given to any party, as may be deemed proper; the court shall also have the power to fill any vacancy in the office of commissioners of appraisal that may occur by death, refusal, or neglect to serve. During the pendency of any appeal or proceeding for review, the court may, in its discretion, direct a stay of all proceedings for the collection of the award appealed from or sought to be reviewed. Id., § 6, as amd., L. 1883, ch. 255, § 2, and L. 1885, ch. 211, § 3.

101 N. Y., 11.

242. PERFECTING TITLE; INJUNCTIONS.—Whenever it shall be found that the title to any such land, streams, water or other property, or the right, title or interest therein, taken or occupied and sought to be acquired by the said board of water commissioners for any of the purposes of this act, is defective, said board may proceed to perfect such title in the same manner as if no appraisal had been made, and the supreme court, or any judge thereof, may, in the meantime, on such terms as may be just, stay all actions or proceedings against the said board of water commissioners and the said village, their officers, servants and agents, on account of the use of the lands, streams, water or other property, or the right, title, or interest therein, so used under such defective title. Id., § 7, as amd., L. 1885, ch. 211, § 4.

All acts or parts of acts inconsistent herewith are hereby repealed. L. 1885, ch. 21, § 5.

243. COMMISSIONERS TO BORROW MONEY ON CREDIT OF VILLAGE.— The said commissioners shall have power, and it

shall be their duty, to borrow from time to time, upon the credit of the village, a sum not exceeding ten per centum of the assessed value of the real and personal estate of the valuation of the village, as shall appear by the then last assessment-roll, upon such terms of credit not exceeding thirty years, and at rate of interest not exceeding six per centum per annum, as shall seem to them for the best interest of said village; and to secure the payment of said loan, said commissioners are authorized to make, execute and deliver bonds, certificates or other obligations, which shall be signed by them, or any three of them, as said commissioners; which said bonds, certificates or other obligations shall be made payable in such respective amounts, and at such respective times, as such commissioners shall deem best, and said bonds and the interest thereon shall be a valid liability against said village, and the credit of said village is pledged for the payment of the same; and the said money so borrowed shall be appropriated by said commissioners to supplying said village with water, agreeable with the provisions of this act. But no such bonds, certificates or other obligations shall be disposed of by such commissioners at less than the par value thereof. L. 1875, ch. 181, §8, as amd., L. 1881, ch. 175, § 2.

244. JOINT OFFICIAL BOND OF.—No bonds, certificates or other obligations of indebtedness shall be issued, nor shall any official act be done by any board of commissioners authorized by this act, until such commissioners shall have filed with the clerk of the county within which such village or some portion thereof shall be situated their joint and several bond in the sum of thirty thousand dollars if the system of water-works to be erected or in operation will or has cost more than thirty thousand dollars, or in the sum of ten thousand dollars, if the system of water-works will or has cost less than thirty thousand dollars, with sureties qualifying in double the amount, to be justified before a notary public and approved by the county judge of said county or a justice of the Supreme Court and conditioned for the faithful performance of the duties of such commissioners; or in lieu of the aforesaid joint and several bond each of said commissioners may give a separate bond with sureties, or with any number of the other water commissioners a joint and several bond with sureties in the amount of at least eight thousand dollars each if the system of water-works has or will cost more than thirty thousand dollars, or if the system cost less than thirty thousand dollars of at least three thousand dolars each, conditioned for the faithful performance of his or their duties as such commissioner or commissioners and filed, justified and approved as above provided. But in case such commissioners shall have been elected or appointed

as a separate body from the board of trustees said bond or bonds above required may be approved by the trustees of the village, instead of the county judge or a justice of the Supreme Court, providing no member of the board of trustees shall then be holding the office of water commissioner. And when the term of office of any such commissioner shall expire, he shall hold his office as such commissioner, until new bonds or bond shall have been given by the board of which his successor is to be a member or by his successor in office, which bonds shall be in similar form, for like amounts, justified, approved and filed in a similar manner. Id., § 9, as amd., L. 1883, ch. 255, § 3, L. 1889, ch. 455, and L. 1891, ch. 201.

245. POWERS OF COMMISSIONERS ON CONSTRUCTION OF WORKS; BIDS.— Said commissioners shall have power to make all necessary contracts for labor and materials in the construction of the work, and all pertaining thereto, which said contracts shall be in writing, signed by a majority of the commissioners, and of which there shall be three originals executed by the parties, which shall be numbered by the same number, one of which shall be given to the contractor, one to the village clerk, which shall be filed by said clerk with the records of said village, and one retained by the commissioners; and three weeks' public notice shall be given in one or more newspapers published in said village, or, if no paper is published in said village, then in one or more of the nearest newspapers published in the county, as the commissioners shall direct, of the times and places at which sealed proposals will be received for entering into contracts, and the commissioners shall have full discretion as to the acceptance or rejection of all sealed proposals; and in case any materials and labor shall then remain uncontracted for, the like notice for sealed proposals and like proceedings may be had as above provided; and so, from time to time, as said commissioners may direct, for work or materials; and every person who shall enter into any contract for the supply of materials, or the performance of any work, shall give satisfactory security to such commissioners for the faithful performance of his contract according to its terms. The commissioners, without advertising for bids, may employ labor and buy material in open market for storehouses, shops and water mains, in value not exceeding five hundred dollars in any one year; or for distributing pipes and cut-offs connecting the mains with the surface supply pipes to buildings and yards, or for valves, gates, hydrants and hydrant pipes, or for repairs to the water-works, or for tools, implements and supplies needed to make such additions and repairs. The commissioners may employ

a superintendent, and such other help as may be required in taking charge of and in carrying on the water-works, whose term of office shall close at the option of the board. The superintendent shall give to the commissioners a bond, with sureties, conditioned for the faithful performance of the duties required of him by the board, to be approved by them. On and after the organization of any board of water commissioners, pursuant to the provisions of this act, they shall take charge of and carry on any system of water-works then belonging to the village. Id., § 10, as amd., L. 1889, ch. 455, § 3.

92 N. Y., 368.

246. COMMISSIONERS NOT TO BE INTERESTED.— No commissioner shall be directly or indirectly interested in any contract relating to the work or materials therefor, nor in any work or materials for the work, nor for any portion of the water-works, nor shall he receive any compensation for his services, nor for anything pertaining thereto. Id., § 11.

247. USE OF GROUND UNDER STREETS.— The said commissioners, and all acting under their authority, shall have the right to use the ground or soil under any street, highway or road within the county in which such village is situated for the purpose of introducing water into and through any and all portions of said village on condition that they shall cause the surface of such street, highway or road to be relaid and restored to its usual state, and all damages done thereto to be repaired, and such right shall be continuous for the purpose of repairing and relaying water pipes upon like conditions. And the said commissioners shall have the further power to contract with and sell to any corporation, stock company or individual, without the corporate limits of said village, the right to make connection with the distributing pipes of said village, for the purpose of drawing water therefrom, at such prices and on such conditions as, in the judgment of said commissioners, shall be for the best interests of said village, and, within the limits of a village which has not established a system of water-works in pursuance of law, to distribute water to the inhabitants thereof and to use the ground or soil under any street therein, for the purpose of laying distributing pipes or making connections therewith, on condition that they shall cause the surface of street to be relaid and restored to its usual state, and all damage done thereto to be repaired. But no such right shall be granted or in any way enforced, when, by so doing, the supply for the wants or necessities of said village shall thereby be curtailed. Id., 12, as amd., L. 1876, ch. 134, and 1893, ch. 624.

248. WATER RENTS.—The said commissioners shall establish a scale of rents to be charged and paid to the commissioners from time to time, either in advance or at such time and times, as the commissioners shall prescribe, for the supply of water, to be called "water rents," and appropriated to different classes of buildings in said village, in reference to their dimensions, values, exposure to fires, ordinary or extraordinary uses for dwellings, stores, shops, hotels, factories, livery stables, barns and all other buildings, establishments and trades, yards, number of families or occupants, or consumption of water as near as may be practicable, and from time to time, either modify, amend, increase or diminish such rents; and said commissioners and their respective employes shall be authorized at all times to enter into any building or place where water is used from supply pipes, to examine as to the water, quantity of water used and the manner of using it. Id., § 13.
33 St. Rep., 15.

249. SAME. Boards of water commissioners, acting under chapter one hundred and eighty-one of the laws of eighteen hundred and seventy-five and acts amendatory thereof, may establish a scale of rates for the use of water and also rates for fire protection to be assessed on all real property abutting on the mains or within two hundred feet of the hydrants, the owners or occupants of which do not use the water for domestic or manufacturing purposes. A day shall be appointed by the board for hearing grievances against such assessment, and said assessments shall be subject to review as other assessments. Upon completion of said assessment the board shall certify the same to its treasurer, who shall receive said rates for thirty days without fees. Upon the expiration of such time said board may issue its warrant to the village collector for the collection of arrears, and they shall be collected in the same manner as other taxes. The provisions of this act shall not apply to the counties of Kings, Queens, Richmond and Suffolk. L. 1889, ch. 507, as amd., L. 1893, ch. 662.
32 St. Rep., 18.

250. CONNECTING PIPES.—The connecting or supplying pipes leading from buildings or yards to the distribution pipes shall be inserted and kept in repair at the expense of the owner or occupant of the building or yard, and shall not be inserted or connected with the main pipe until a permit therefor shall be obtained from said commissioners, or other persons having charge thereof, and all such connecting or supply pipes shall be constructed and connected in the manner directed by said commissioners or persons in charge. L. 1875, ch. 181, § 14.

251. WATER RENTS, HOW APPLIED.— The entire annual receipts for water rents after deducting therefrom such sums as may be necessary to defray the expenses of repairs of said waterworks, and of extending the same, and other necessary expenses, shall be applied toward the payment of the interest on the loan hereinbefore authorized, and also toward the creation of a sinking fund for the payment of the principal of said loan, as it shall from time to time become due and payable, which sinking fund shall be managed by said commissioners. No investment shall be made in behalf of such sinking fund, except in the bonds of the United States, of the State of New York, or of any city of this State, and in the bonds, certificates or other obligations authorized to be issued by such village under this act, which last-named bonds, certificates and obligations, the commissioners may purchase at any time when they shall have funds applicable, at prices not exceeding their par value, and when so purchased said bonds, certificates and obligations shall not be reissued but shall be immediately canceled. Id., § 15.

252. TAX FOR DEFICIENCY TO PAY INTEREST AND PRINCIPAL OF BONDS.— In case the estimated amount of the entire annual receipts for water rents, after deducting as in the preceding section provided, shall, in any official year ending with the next annual meeting of the village, not be sufficient to pay the interest for that year on said loans, or in case in any such year when any of the principal of the loan secured by said bonds falls due, the amount of said estimated receipts of water rents, after making said estimated deductions, together with the sum in the said sinking fund shall not be sufficient to pay said principal, and also said interest, falling due that year, as estimated by the water commissioners, it shall be the duty of the board of trustees of said village, and they are hereby directed, on notice of such estimate from the commissioners, to cause such deficiency to be assessed, levied and collected from the taxable property of said village at the same time and in the same manner as other expenses of said village are assessed, levied and collected and the same shall be paid to the treasurer of the board of water commissioners to be applied to the payment of such interest or principal, or both. Whenever a deficiency shall be about to exist to pay such maturing interest or principal, or both, upon notice of the same by the board of water commissioners, it shall be the duty of the board of trustees, prior to the maturity of such obligations, to borrow on temporary loan on the credit of the village, at not exceeding the legal rate of interst, such sum as may be required to pay such deficiency, and pay the same to the treasurer of the board of water commissioners, and the same shall be applied to

the payment of the interest or principal, or both, on said loans secured by said bonds. The amounts to become due on such temporary loans shall be assessed, levied and collected from the taxable property of said village at the same time and manner as other expenses of said village are assessed, levied and collected. Any surplus at any time in the hands of the board of water commissioners beyond the sinking fund required to pay such interest or principal, or both, and not required by them to pay other obligations of the board, or to extend, repair or carry on the water-works or for a reserve for unforeseen accidents, shall be paid to the treasurer of the village, for the use of the village, as the same may be appropriated by the board of trustees. Id., § 16, as amd., L. 1890, 527.

253. COMMISSIONERS TO MAKE ANNUAL STATEMENT. —The said commissioners shall annually, on the first day of May in each year, and at all such other times as required by the board of supervisors of a county in which said village or some portion thereof is situated, deliver to said board of supervisors a detailed statement of all their accounts, a general statement of all their work, and condition of their affairs and state of finances, including a full detail of the amount expended in the progress of the work, and a particularized statement of any deficiency as to the water rents in meeting the principal and interest of the sum borrowed, as in the previous section hereinbefore referred to, and all books and papers of every kind and description kept by said commissioners, upon which are entries of their transactions as such, shall, at all times be subject to the inspection by said board of supervisors, and by every elector of said village. In case such commissioners shall have been elected as such by the vote of the electors of the village or appointed by the president of the board of trustees, as provided for by this act, then and in that case the board of water commissioners shall furnish such statement to the board of president and trustees of the village in lieu of furnishing such statement to the board of supervisors of the county. Id., § 17, as amd., L. 1883, ch. 255, § 4, and L. 1889, ch. 455, § 4.

254. BOARD MAY SUE AND DEFEND.—The board of water commissioners of any village may sue, complain or defend in any court, in the name of said village, in any action to enforce any contract with said board, or to enforce any claim for damages, water rents, labor or supplies connected with the building or carrying on of the water-works by said board. The complaint or answer of said village in such actions shall be verified by the oath of some member of the board. The complaint in action against such village in such cases shall be served on the board

of water commisioners, whose duty it shall be to defend in the name of the village. The damages and costs recovered by the village in such actions shall be paid to the treasurer of the board of water commissioners for their use. The damages and costs against the village in such actions may be paid by the treasurer of said board from any funds in his hands not otherwise appropriated. The foregoing provisions of this section shall not apply to any actions now pending in the courts. All judgments against said commissioners in their names of office and judgments against them, where the transaction upon which the action was brought shall have been in the performance of their duties as commissioners, shall not be enforced against the individual property of either of said commissioners, but such claims on which such judgments shall have been obtained may be prosecuted against the village as provided for by this section. Id., § 18, as amd., L. 1890, ch. 527.

255. COMMISSIONERS TO ESTABLISH RULES AND REGULATIONS.—The said commissioners shall have power, from time to time, to make and establish such by-laws, rules and regulations, not inconsistent with the laws of this State or of the United State, as they shall judge proper for the election of their officers, and as to the duties of these officers and employes, and as to the means of enforcing said duties, and for the regulation of times and manner of holding meetings of commissioners, and for enforcing the collection of water rents and manner of using water, and generally for transacting, managing and directing the affairs of the commissioners, and may provide regulations as to the use of water, and enforce the observance thereof by cutting off the use and supply of water. Id., § 19.

256. VIOLATION OF ACT A MISDEMEANOR.—A violation of any of the provisions of this act by any of such commissioners shall be deemed a misdemeanor. Id., § 20.

257. VOTE AS TO WATER TAX, HOW CONDUCTED.—At any time after the passage of this act, a meeting of the electors of any village may be called by its board of trustees, upon notice published for two weeks in one or more weekly newspapers published in said village, or if no newspaper be published in such village, then in the nearest newspaper published in the county in which such village may be situated, and at which the question will be submitted, whether the taxes in this act authorized for the purpose aforesaid shall be levied and collected from the village, as in this act provided; and no commissioners shall proceed with any duties under this act, unless the majority of the voters and the taxpayers whose names appear upon the last assessment-roll of the village voting at such meeting shall vote in favor of such

taxes. Said votes shall be by ballot, and there shall be written or printed on the ballots of those in favor of taxes, "For the water taxes," and on the ballots of those opposed, "Against the water taxes." The said board of trustees, or any of them, shall preside and certify the result of said meeting, and the village clerk shall, within five days thereafter, serve each of said commissioners with a certified copy of such certificate. Id., § 21.

5 N. Y. St. R., 173; 19 St. Rep., 825.

258. PROCEEDINGS TO ACQUIRE RIGHTS OF EXISTING CORPORATIONS.— Whenever any corporation shall have been organized under the laws of this State for the purpose of supplying the inhabitants of any village with water, and it shall become or be deemed necessary by the board of water commissioners herein authorized to be created, that the rights, privileges, grants and properties of such corporation shall be required for any of the purposes of this act, the commisioners herein authorized to be created shall have the power, and it shall be their duty, to make, or cause to be made, a thorough examination of the works, rights, privileges and properties owned or held by such corporations, or any of them, and if such commissioners shall determine that said works, rights, privileges and properties are necessary for the purposes of this act, they shall have the right to make application to the Supreme Court, at a special term thereof, held in the judicial district in which the works of such corporation are situated, for the appointment of three commissioners of appraisement, who shall be disinterested freeholders and residents of the county. Notice of such determination and application must be served upon the president and secretary of such corporation at least ten days prior to the presentation of any such application. The court shall thereupon appoint the said commissioners of appraisement whose duty it shall be to examine and appraise the value of the works, rights, privileges and properties required to be taken by the board of water commissioners, and such commissioners of appraisement shall make a report in writing of such examination and appraisement to said court at a special term thereof. Said report shall be verified by the oaths of said commissioners; they shall file a copy thereof with the board of water commissioners, and they shall cause a copy thereof to be served upon the president or secretary of the company, whose rights and properties are the subject of such appraisement with a notice of the time and place of the presentation of said report for confirmation. Such notice shall be served at least ten days prior to the time when said report shall be presented for confirmation. If objections be made to the confirmation of said report, by said company, or by a water commissioner, or if objection be made

thereto by any three taxpayers of said village, the court may order a re-examination of said works and properties, and a re-appraisement thereof; and the court may make an order that testimony be taken concerning the value of said works and properties. Said re-examination and re-appraisement shall be made, and said testimony shall be taken within twenty days from the time when said order shall be made, unless such time shall be extended by the court; and upon the presentation of said second report, the court shall proceed to consider the same, and shall thereupon confirm or reject the same. The compensation of such commissioners shall be three dollars per day for each day actually engaged, together with their actual and necessary expenses as adjusted by the court. The awards made to the corporation whose rights and properties are so taken, shall be paid by the water commissioners herein authorized to be created, from the proceeds of bonds, certificates or other obligations, which are hereby authorized to be issued by such commissioners for such purpose and thereupon all the rights, privileges, works, franchises and properties owned by said corporation, or held by it for its purposes, shall be vested in said village. Id., § 22.

259. RESERVOIRS, HOW CONSTRUCTED.—In the construction of any storage reservoir now being erected or hereafter to be erected within the limits of this State, for the purpose of supplying water for the use of any city, town or village, all vegetable or other matter subject to decay shall be removed from the banks thereof between its highest and lowest possible flow lines, or be covered by gravel or stone to prevent any such decay and consequent injury to public health. Id., § 23.

260. LIMITATION OF ACT.—The provisions of this act shall not apply to any village wherein a board of water commissioners has been created according to law. Id., § 24.

261. SPECIAL ELECTION AS TO EXTENDING WATER-WORKS; PROCEEDINGS THEREAT.—Any village of this State owning a system of water-works that have been constructed pursuant to the provisions of chapter one hundred and eighty-one* of the laws of eighteen hundred and seventy-five may extend their water mains beyond the corporate limits of the village for the purpose of selling said village water, under such rules and regulations as the board of water commissioners may prescribe, to persons or corporations located outside the corporation boundaries, subject to the following procedure and requirements. The board of water commissioners may at any time call a special corporation meeting, and it shall be their duty to call such a

* See § 236, *ante*.

meeting whenever petitioned so to do by twenty-five electors of said village, to consider the question of extending the water mains for the purpose aforesaid. Said special meeting shall be called by publishing a notice once in each week for two successive weeks in the village paper stating when and where the said special meeting will be held, and the object of said meeting. Said meeting shall be within five days after the second publication. All electors qualified to vote at the annual corporation meeting shall be entitled to vote at such special meeting; the voting shall be by ballot. On one ballot shall be written or printed "For extending the water mains." On the other ballot shall be written or printed "Against extending the water mains." Said special meeting shall be open and presided over by the board of water commissioners, who shall have for that occasion the powers of a board of inspectors of election. Any person voting illegally at said election shall be subject to all the pains and penalties for illegal voting at town meetings. Said meeting shall be declared open for the reception of votes at one o'clock in the afternoon, and the polls shall so remain open for two hours, when if all persons present entitled to vote have had an opportunity to vote the said polls shall be declared closed, and the water commissioners, acting as such inspectors, shall at once proceed to canvass said vote. If two-thirds of the votes polled shall be "For extending the water mains," then the water board shall have authority to extend said mains as aforesaid, provided that they shall not enter upon said work until they have entered upon their records a minute to the effect that they have received pledges for the taking and paying for said village water by persons or corporations located beyond the village limits, which amount to at least ten per centum on the estimated cost of said extension; and provided further that the cost of said extension added to the original cost of the water-works shall not exceed the limit stated in chapter one hundred and eighty-one* of the laws of eighteen hundred and seventy-five. The board of water commissioners are authorized to borrow the money needed to build any such extension in the manner provided for in said act of eighteen hundred and seventy-five. L. 1886, ch. 497, § 1.

262. BOARD OF WATER COMMISSIONERS TO ESTABLISH WATER RATES.— Boards of water commissioners, acting under chapter one hundred and eighty-one* of the laws of one thousand eight hundred and seventy-five, and acts amendatory thereto, may annually establish a scale of water rates for the use of water, also rates to be assessed upon all real property abutting on the streets where the water-pipes are laid. A day

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*Ante, § 236.

shall be appointed by the board for hearing grievances against such assessment, and said assessment shall be subject to review as other assessments. Upon completion of said assessment the board shall certify the same to its treasurer, who shall receive said rates for thirty days without fees; upon the expiration of such time said board may issue its warrant to the village collector for the collection of arrears, and they shall be collected in the same manner as other taxes. The provisions of this act shall not apply to the counties of Kings, Queens, Richmond and Suffolk. L. 1889, ch. 507, § 1.

263. WATER-WORKS CORPORATIONS.—Seven or more persons may become a corporation for the purpose of supplying water to any of the cities, towns or villages and the inhabitants thereof in this State, by executing, acknowledging and filing a certificate stating the name of the corporation, the amount of its capital stock, the number of shares into which it is to be divided, the location of its principal office, the number of its directors, not less than seven, the names and places of residence of the directors for the first year, the name of the cities, towns and villages which it is proposed to supply with water; that the permit of the authorities of such cities, towns and villages herein required has been granted; the post-office address of each subscriber, and the number of shares he agrees to take in such corporation, the aggregate of which shall be at least one-tenth of the capital stock, and ten per centum of which shall be paid in cash to the directors. At the time of filing there shall be annexed to the certificate and as a part thereof, a permit, signed and acknowledged by a majority of the board of trustees of the village, in case an incorporated village is to be supplied with water, and in case a town, or any part thereof, not within an incorporated village, is to be so supplied, by the supervisor, justice of the peace, town clerk and highway commissioners thereof, or a majority of them, and in case a city is to be supplied with water by the board of water commissioners of said city, or by such other board or set of officials as perform the duties of water commissioners and have charge of the water supply for said city, authorizing the formation of such corporation for the purpose of supplying such city, village or town with water, and an affidavit of at least three of the directors that the amount of capital stock herein required has been subscribed and paid in cash. (L. 1892, ch. 617, § 80. Thus amended by L. 1892, ch. 617.)

264. MUST SUPPLY WATER; VILLAGE TRUSTEES MAY CONTRACT FOR SAME; TAX THEREFOR.—Every such corporation shall supply the authorities or any of the inhabitants of any city, town or village through which the conduits or mains of such corporations may pass, or wherein such corporations may

have organized, with pure and wholesome water at reasonable rates and cost, and the town board of any town and the board of trustees of any incorporated village and the water commissioners or other board of officials performing the duties of water commissioners, and having charge of the water supplies of any city of this State, shall have the power to contract in the name and behalf of the municipal corporation of which they are officers, for the term of one year or more, for the delivery by such company to the town, village or city, of water, through hydrants or otherwise, for the extinguishment of fires, and for sanitary and other public purposes; and the amount of such contract agreed to be paid shall be annually raised as a part of the expenses of such town, village or city, and shall be levied, assessed and collectd in the same manner as other expenses of the town, village or city are raised, and when collected shall be kept separate from other funds of the town, village or city, and be paid over to such corporation by the supervisor of the town, such trustees or city officials, according to the terms and conditions of any such contract; and any such contract entered into by any town board, or by the board of trustees of any village, or by water commissioners, or other board performing the duties of water commissioners, and having charge of the water supply of any city, shall be valid and binding upon such town, village or city, but no such contract shall be made for a longer period than ten years, nor for a sum exceeding, in the aggregate, two and one-half mills for every dollar of the taxable property of such town, village or city, per annum, except upon a petition of a majority of the taxable inhabitants of any such town, village or city, or portion thereof which it is proposed to supply with pure and wholesome water, unless a resolution authorizing the same has been submitted to a vote of the electors of the town, village or city, in the manner provided by the town law, village law or city charter, and approved by a majority of the voters entitled to vote, and voting on such question at any annual election or special election duly called; and any town board or board of trustees, or board of water commissioners, or other city officials, when so authorized, may make such contract for a term not exceeding thirty years, and the amount of such contract shall be paid in semi-annual installments; provided that in towns where there shall be at the time of making any such contract, an incorporated village, constituting a part only of such town, no tax shall be assessed, levied or collected upon property within the limits of such village, for such purpose, except in pursuance of an agreement with the board of trustees of such village; and in any town where it is proposed to supply with water only a portion of such town, or the inhabitants of a portion of the town (such portion

not being an incorporated village), the town board may contract, as hereinbefore prescribed, for a supply of water as aforesaid for such portion of the town, or for the inhabitants of such portion, and the whole town shall be bound by such contract when duly made; but the entire annual rental or expense, or such portion thereof as they may deem just, may be directed by said town board to be assessed and levied upon, and collected from the taxable property of that portion of the town which will be benefited by such supply of water; provided always that such expense shall in no case exceed per year three mills upon each dollar of the taxable property of that portion of the town. Id., § 81, as amd., L. 1894, ch. 230.

265. POWERS.—Every such corporation shall have the following additional powers:

1. To lay and maintain their pipes and hydrants for delivering and distributing water in any street, highway or public place of any city, town or village in which it has obtained the permit required by section eighty of this article.

2. To lay their water pipes in any streets or avenues or public places of an adjoining city, town or village, to the city, town or village where such permit has been obtained.

3. To cause such examinations and surveys for its proposed water-works to be made as may be necessary to determine the proper location thereof, and for such purpose by its officers, agents or servants to enter upon any lands or waters in the city, town or village where organized, or in any adjoining city, town or village for the purpose of making such examinations or surveys, subject to liability for tll damages done. Id., § 82. (Thus amended by L. 1892, ch. 617.)

266. SURVEY AND MAP.—Before entering upon, taking or using any land, for the purposes of its incorporation such corporation shall cause a survey and map to be made of the lands intended to be taken or entered upon, by and on which the land of each owner or occupant shall be designated, which map shall be signed by the president and secretary, and filed in office of the county clerk of the county in which such lands are situated. Id., § 83, as amd., L. 1892, ch. 617.

267. CONDEMNATION OF REAL PROPERTY.—Any corporation organized under this article, shall have the right to acquire real estate, or any interest therein necessary for the purposes of its incorporation, and the right to lay, relay, repair and maintain conduits and water pipes with connections and fixtures, in, through or over the lands of others; the right to intercept and divert the flow of waters from the lands of riparian owners, and from persons owning or interested in any waters, and the right to prevent the flow of drainage of noxious or impure matters

from the lands of others into its reservoirs or sources of supply. If any such corporation, which has made a contract with any city, town or village or with any of the inhabitants thereof for the supply of pure and wholesome water as authorized by section eighty-one of this article, shall be unable to agree upon the terms or purchase of any such property or rights, it may acquire the same by condemnation. But no such corporation shall have power to take or use water from any of the canals of this State, or any canal reservoirs as feeders, or any streams which have been taken by the State for the purpose of supplying the canals with water. § 84. (Thus amd., by L. 1894, ch. 230.)

268. CORPORATION MAY CONTRACT WITH OTHER CITIES, TOWNS OR VILLAGES; AMENDED CERTIFICATE. —When any such corporation has entered into a contract with the authorities of any city, town or village not mentioned in its certificate of incorporation, but situated in the same county as the city, towns or villages mentioned therein or an adjoining county, to supply it with pure and wholesome water, it may file an amended certificate, stating the name of such other city, town or village to be so supplied with water, and it may thereupon supply any such city, town or village with water in the same manner and with the same rights and subject to the same requirements as if it had been named in the original certificate of incorporation. Id., § 85. (Thus amd., by L. 1892, ch. 617.)

CHAPTER XIII.

GAS AND ELECTRIC LIGHTS, CEMETERIES, PARKS AND LIBRARIES.

269. CONTRACT FOR LIGHTING VILLAGES; EXPENSES; RESTRICTIONS.—The board of trustees of any incorporated village of this State, whether incorporated under the act entitled "An act for the incorporation of villages," passed April twentieth, eighteen hundred and seventy, and acts amendatory thereof and supplemental thereto, or by special charter or act, shall have the power, and they are hereby authorized and empowered, to contract for a term of one year or more with any electric light company organized under the laws of this State, or with any person or persons for lighting the streets and public grounds of such village, agreed to be paid shall be annually raised as a part of the expenses of such village, and shall be levied, assessed and collected in the manner that other expenses of said village are raised, and when collected shall be kept separate from other funds of said village manner that other expenses of said village are raised, and when

collected shall be kept separate from other funds of said village and shall be paid over to such electric light company, person or persons by such trustees according to the terms of any such contract; and any such contract entered into by the board of trustees of any village shall be valid and binding upon such village, providing, however, that no such contract shall be made for a longer period than five years nor for a greater sum in the aggregate than two thousand dollars per annum in a village of not more than three thousand population by the last preceding federal census or State enumeration nor more than one and one-half mills per annum for every dollar of the taxable property in a village exceeding such population by such census or enumeration, unless the proposition for the same be submitted to a vote of the electors of such village, in the manner provided by sections four and five of title four of chapter two hundred and ninety-one of the laws of eighteen hundred and seventy, and approved by the majority of the voters entitled to vote, and voting on such question at an annual election or at a special election duly called. L. 1888, ch. 452, as amd., L. 1891, ch. 312, and as amd., L. 1893, ch. 473.

270. APPLICATION OF ACT.—The provisions of this act shall not apply to any village the population of which exceeded eight thousand by the census of eighteen hundred and eighty. L. 1888, ch. 452, § 2.

271. EXEMPTIONS FROM ACT.—The counties of Richmond, Queens and Suffolk and the village of White Plains in the county of Westchester, are hereby exempted from the provisions of this act. Id., § 3, as amd., L. 1893, ch. 617.

Chap. 673, Laws 1895.

See, also, the following act.

Sec. 1. The board of trustees of any village in this State incorporated under the act entitled "An act for the incorporation of villages," passed April 20th, 1870, and acts amendatory and supplemental thereto, shall have the power and they are hereby authorized and empowered to contract for a term of one year or more, with any lighting company, organized under the laws of this State, or with any person or persons for lighting the streets and public grounds of such village, and the amount of such contract agreed to be paid shall be annually raised as a part of the expenses of such village, and shall be levied, assessed and collected in the manner that other expenses of said village are raised, and when collected, shall be kept separate from other funds of said village, and shall be paid over to such lighting company, person or persons by such trustees, according to the terms of any such contract; and any such contract entered into by the board of trustees of any such village shall be valid and binding upon such village, providing, however, that no such contract shall be made

for a longer period than five years, nor for a greater sum in the aggregate than two and one-half mills for every dollar of the taxable property of said village per annum, unless the proposition for the same be submitted to a vote of the electors of such village in the manner provided by sections 4 and 5 of title 4, of ch. 291 of the laws of 1870, and approved by a majority of the voters entitled to vote, and voting on such question, at an annual election or at a special election duly called. L. 1894, ch. 673.

NOTE.—All the counties in this State are exempted from the provision of the act, except Westchester.

271a. GAS AND ELECTRIC LIGHTING SYSTEM.—The board of water commissioners of any village in the State of New York, incorporated by or in pursuance of a general or special law, having a water-works system belonging to the village, shall have the power to establish a lighting system within said village, for the purpose of supplying light, by means of electricity,* gas or other approved system, to the inhabitants of said village. L. 1894, ch. 680.

For the purposes of this act the said water commissioners shall have power to issue bonds or other certificates of indebtedness upon the faith and credit of said village, to procure the necessary funds for establishing such lighting system; provided, however, that the aggregate amount of indebtedness incurred for the purpose of establishing a water-works system and the lighting system shall not exceed ten per centum of the aggregate amount of assessment of the taxable property of the said village as ascertained from the last assessment-roll. Id., § 2.

The said water commissioners, in villages taking advantage of the provisions of this act shall be known as water and light commissioners, and shall have power to establish and maintain such lighting system to supply the inhabitants with light, and to collect rentals therefor, and they shall dispose of the moneys derived from the same in the same manner as provided for the disposition of moneys derived from water rentals, by chapter one hundred and eighty-one, of the laws of eighteen hundred and seventy-five, and the acts amendatory thereof, relating to boards of water commissioners. Id., § 3.

The village trustees of said village may arrange with such commissioner for the public lighting of such village, and levy and collect a tax to pay the expenses thereof. Id., § 4.

No village shall establish a lighting system as provided by the act until the proposition be submitted to popular vote at an annual or special election. At such election the ballots shall be "for a lighting system," or "against a lighting system," and all

* So in original.

those persons entitled to vote for or against the water taxes shall be entitled to vote on such proposition. If a majority of votes cast be in favor of a lighting system, the said commissioners may proceed to establish the same as herein provided. Id., § 5.

Whenever any person or corporation organized under the laws of this State, shall have erected and established a gas or electric light system, for the purpose of furnishing gas or electric light for the public streets, parks, grounds and public buildings, or to the inhabitants of any such village, under a franchise or contract granted or made pursuant to law, and supplies gas or electric light for the public streets, parks, grounds, public buildings or the inhabitants of such village, and a majority of the voters of such village voting at any annual or regularly called special meeting, decide to establish a lighting system, the board of water and light commissioners of such village shall make or cause to be made, an examination of such gas or electric light system and the privileges and properties connected and operated therewith, and proceed to acquire such system, privileges and properties by condemnation. Id., § 6.

272. VILLAGE PARKS AND LIBRARIES, GIFTS, ETC., FOR.—It shall be lawful to grant and devise real estate, and to give and bequeath personal property to trustees and their successors in trust, for the purpose of creating, continuing and maintaining, according to the terms, conditions and provisions of such grant, gift, devise or bequest, one or more public parks or a public library or both, such park or parks and library in any village of this State. The number of such trustees shall not be less than three nor more than nine. L. 1890, ch. 160, § 1, as amd., 1892, ch. 25.

273. INCORPORATION THEREOF.—Whenever any such grant, gift, devise or bequest shall have been made, such trustees shall thereupon become and be a body politic and corporate with the name which shall have been specified by the donor in making the donation, and with the number of trustees, within the foregoing limits, named by the donor; and such corporation shall have full power to take and hold all property which shall have been and also which shall thereafter be granted, given, devised or bequeathed to it as aforesaid for said uses and purposes, and shall possess the powers and be subject to the provisions and restrictions contained in title three of chapter eighteen of part one of the Revised Statutes. If no name shall have been specified by the donor as aforesaid, the name of the corporation shall be such as the said trustees shall adopt, certify and file in the county clerk's office of the county in which the interested village is located. Id., 2.

274. ELIGIBILITY OF TRUSTEES.—Residents of the interested village only, shall be eligible as trustees. In case of the death of a trustee, or of his resignation, removal from the village, removal from office, or inability to discharge the duties of his office, his place shall be deemed to be vacant, and may be filled by the remaining trustees; and, in default of their so making an appointment within three months, the appointment to fill the vacancy shall be made by the Supreme Court, on the petition of any inhabitant of the interested village, and after due notice to the other trustees and to the president of the village. Said trustees shall be subject to removal by said court for malfeasance or misfeasance in office, upon such notice and after trial in such manner as said court shall direct. Id., § 3.

275. MANAGEMENT AND APPROPRIATION OF PROPERTY.—Said trustees shall have the custody and management of all the property of such corporation, and shall appropriate the same, so far as the terms, provisions and conditions of the donations will permit, for providing suitable grounds for such a public park or parks and property preparing, beautifying, embellishing and keeping up and maintaining the same, or for furnishing and supplying such library with a suitable and proper edifice, rooms, furniture, books, maps, magazines and whatever may be necessary to make, keep up and maintain a good and complete library, or for both purposes, and paying the expenses of the trust. Demising lands donated to the corporation and investing and keeping money invested at interest, and using the rents and interest therefrom for park purposes or library purposes, shall be deemed to be an appropriation of such property for said purposes. Id., § 5, as amd., L. 1892, ch. 25.

276. PARKS AND LIBRARIES, FREE.—All such parks and libraries shall be free and open to the public for use and enjoyment, subject only to such reasonable rules and regulations as the trustees, from time to time, shall adopt and promulgate. Id., § 6, as amd., L. 1892, ch. 25.

277. VISITATION OF SUPREME COURT.—All corporations existing under this act together with their books and vouchers, shall be subject to the visitation and inspection of the justices of the Supreme Court, or of any person or persons who shall be appointed by the Supreme Court for that purpose; and it shall be the duty of the trustees or a majority of them, in the month of December in each year, to make and file in the office of the county clerk of the county in which the interested village is situate, a certificate under their hands, stating the names of the trustees and officers of such corporation, with an inventory of the

property, effects and liabilities thereof, with an affidavit of the truth of such inventory and certificate. Said trustees shall be entitled to such compensation as said court shall fix. Said court shall also have power to control the discretion of said trustees in determining what property may be demised and for how long; also how much money may be invested and kept invested on interest to produce an income to keep up and maintain the park, parks or libraries or both; and also in a summary way to determine the reasonableness of any rules and regulations, upon complaint of any inhabitant of the interested village, and upon notice to said trustees. Id., § 6, as amd., L. 1892, ch. 25.

278. PROVISO AS TO DEVISE.—The act shall not be construed or held to authorize any devise or bequest whatever, unless the will was executed at least two months before the decease of the testator or testatrix, nor of more than one half of the estate of the testator or testatrix, over and above the payment of debts, liabilities and expenses, in case he or she shall leave a husband, wife, child or parent him or her surviving. Id., § 7.

279. PUBLIC AND FREE LIBRARIES AND MUSEUMS.—All the provisions of sections 35 to 51, of the laws relating to the University of New York, applies equally to libraries, museums and to combined libraries and museums and the word library shall be construed to include reference and circulating libraries and reading-rooms. L. 1892, ch. 378, § 35.

280. ESTABLISHMENT.—By majority vote at any election, any city, village, town, school district, or other body authorized to levy and collect taxes, or by vote of its common council, any city, or by vote of its trustees, any village, may establish and maintain a free public library, with or without branches, either by itself or in connection with any other body authorized to maintain such library. Whenever twenty-five taxpayers shall so petition, the question of providing library facilities shall be voted on at the next election or meeting at which taxes may be voted, provided that due public notice shall have been given of the proposed action. Id., § 36.

281. SUBSIDIES.—By similar vote money may be granted toward the support of libraries not owned by the public but maintained for its welfare and free use; provided, that such libraries shall be subject to the inspection of the regents and registered by them as maintaining a proper standard, that the regents shall certify what number of the books circulated are of such a character as to merit a grant of public money, and that the amount granted yearly to libraries on the basis of circulation shall not exceed ten cents for each volume of the circulation thus certified by the regents. Id., § 37.

282. TAXES.— Taxes, in addition to those otherwise authorized, may be voted by any authority named in section thirty-six and for any purpose specified in sections thirty-six and thirty-seven, and shall, unless otherwise directed by such vote, be considered as annual appropriations therefor till changed by further vote, and shall be levied and collected yearly, or as directed, as are other general taxes; and all money received from taxes or other sources for such library shall be kept as a separate library fund and expend only under direction of the library trustees on properly authenticated vouchers. Id., § 38.

283. TRUSTEES.— Such libraries shall be managed by trustees who shall have all the powers of trustees of other educational institutions of the university as defined in this act; provided, unless otherwise specified in the charter, that the number of trustees shall be five; that they shall be elected by the legal voters, except that in cities they shall be appointed by the mayor, with the consent of the common council, from citizens of recognized fitness for such position; that the first trustees determine by lot whose term of office shall expire each year and that a new trustee shall be elected or appointed annually to serve for five years. Id., § 39.

284. INCORPORATION.—Within one month after taking office, the first board of trustees shall apply to the regents for a charter in accordance with the vote establishing the library. Id., § 40.

285. REPORTS.— Every library or museum which receives State aid or enjoys any exemption from taxation or other privilege not usually accorded to business corporations shall make the report required by section twenty-five of this act, and such report shall relieve the institution from making any report now required by statute or charter to be made to the Legislature, or to any department, court or other authority of the State. These reports shall be summarized and transmitted to the Legislature by the regents with the annual reports of the State library and State museum.

286. USE.— Every library established under this act shall be forever free to the inhabitants of the locality which establishes it, subject always to rules of the library trustees, who shall have authority to exclude any person who wilfully violates such rules; and the trustees may, under such conditions as they think expedient, extend the privileges of the library to persons living outside such locality. Id., § 42.

287. INJURY TO PROPERTY.—Whoever intentionally injures, defaces or destroys any property belonging to or deposited in any incorporated library, reading-room, museum, or other

educational institution, shall be punished by imprisonment in a State prison for not more than three years, or in a county jail for not more than one year, or by a fine of not more than five hundred dollars, or by both such fine and imprisonment. Id., § 43.

288. DETENTION.—Whoever willfully detains any book, newspaper, magazine, pamphlet, manuscript, or other property belonging to any public or incorporated library, reading-room, museum or other educational institution, for thirty days after notice in writing to return the same, given after the expiration of the time which by the rules of such institution, such article or other property may be kept, shall be punished by a fine of not less than one nor more than twenty-five dollars, or by imprisonment in the jail not exceeding six months, and the said notice shall bear on its face a copy of this section. Id., § 44.

289. TRANSFER OF LIBRARIES.—Any corporation, association, school district or combination of districts may, by legal vote duly approved by the regents, transfer the ownership and control of its library, with all its appurtenances to any public library in the university, and thereafter said public library shall be entitled to receive any money, books or other property from the State or other sources, to which said corporation, association or district would have been entitled but for such transfer, and the trustees or body making the transfer shall thereafter be relieved of all responsibility pertaining to property thus transferred. Id., § 45.

290. LOCAL NEGLECT.—If the local authorities of any library supported wholly or in part by State money, fail to provide for the safety and public usefulness of its books the regents shall in writing notify the trustees of said library what is necessary to meet the State's requirements, and on such notice all its rights to further grants of money or books from the State shall be suspended until the regents certify that the requirements have been met; and if said trustees shall refuse or neglect to comply with such requirements within sixty days after service of such notice, the regents may remove them from office and thereafter all books and other library property wholly or in part paid for from State money shall be under the full and direct control of the regents who, as shall seem best for public interests, may appoint new trustees to carry on the library, or may store it or distribute its books to other libraries. Id., § 46.

291. LOANS OF BOOKS FROM STATE.—Under such rules as the regents may prescribe, they may lend from the State library, duplicate department, or from books specially given or bought for this purpose, selections of books for a limited time to any public library in this State under visitation of the regents, or

to any community not yet having established such library, but which has conformed to the conditions required for such loans. Id., § 47.

292. ADVICE AND INSTRUCTION FROM STATE LIBRARY OFFICERS.—The trustees or librarian or any citizen interested in any public library in this State shall be entitled to ask from the officers of the State library any needed advice or instruction as to a library building, furniture and equipment, government and service, rules for readers, selecting, buying, cataloguing, shelving, lending books, or any other matter pertaining to the establishment, reorganization or administration of a public library. The regents may provide for giving such advice and instruction either personally or through printed matter and correspondence, either by the State library staff or by a library commission of competent experts appointed by the regents to serve without salary. The regents may, on request, select or buy books, or furnish (*) instead of money apportioned, or may make exchanges and loans through the duplicate department of the State library. Such assistance shall be free to residents of this State as far as practicable, but the regents may, in their discretion, charge a proper fee to non-residents or for assistance of a personal nature or for other reason not properly an expense to the State, but which may be authorized for the accommodation of users of the library. Id., § 48.

293. INCORPORATION OF GAS COMPANY.—Three or more persons may become a corporation for manufacturing and supplying gas for lighting the streets and public and private buildings of any city, village or town, or two or more villages or towns not over five miles distant from each other, in this State, or for manufacturing and using electricity for producing light, heat or power, and in lighting streets, avenues, public parks and places and public and private buildings of cities, villages and towns within this State, by making, signing, acknowledging and filing a certificate stating the name of the corporation, its objects, the amount of its capital stock, the term of its existence not to exceed fifty years, the number of shares of which the stock shall consist, the number of directors not less than three nor more than thirteen, the names and places of residence of the directors for the first year, and the name of the town and county in which the operations of the corporation are to be carried on, and thereupon the persons who shall have signed the same, their associates and successors shall be a corporation by the name stated in the certificate. L. 1890, ch. 566, § 60.

* So in the original.

294. POWERS.—Every such corporation shall have the following additional powers:

1. If incorporated for the purpose of supplying gas for light, to manufacture, sell and furnish such quantities of gas as may be required in the city, town or village where the same shall be located, or said two or more villages or towns, not over five miles distant from each other, named in its certificate of incorporation, for lighting the streets, and public or private buildings or for other purposes; and to lay conductors for conducting gas through the streets, lanes, alleys, squares and highways, in such city, villages or towns, with the consent of the municapal authorities thereof, and under such reasonable regulations as they may prescribe; and such municipal authorities shall have power to exempt any such corporation from taxation on their personal property for a period not exceeding three years from the organization of the corporation.

2. If incorporated for the purpose of using electricity for light, heat or power, to carry on the business of lighting by electricity or using it for heat or power in cities, towns and villages within this State, and the streets, avenues, public parks and places thereof, and public and private buildings therein; and for the purposes of such business to generate and supply electricity; and to make, sell or lease all machines, instruments, apparatus and other equipments therefor, and to lay, erect and construct suitable wires or other conductors, with the necessary poles, pipes or other fixtures in, on, over and under the streets, avenues, public parks and places of such cities, towns or villages, for conducting and distributing electricity, with the consent of the municipal authorities thereof, and in such manner and under such reasonable regulations, as they may prescribe.

3. Any two or more corporations organized under this article or under any general or special law of the State for the purpose of carrying on any business which a corporation organized under this article might carry on, may consolidate such corporations into a single corporation by complying with the provisions of the business corporations law relating to the consolidation of business corporations. Id., § 61.

295. NO RENT FOR METERS TO BE CHARGED.—No gas light corporation in this State, shall charge or collect rent on its gas meters, either in a direct or indirect manner, and any person, party or corporation violating this provision shall be liable to a penalty of fifty dollars for each offense, to be sued for and recovered in the corporate name of the city or village where the violation occurs, in any court having jurisdiction, and when collected to be paid into the treasury of such city or village and

to constitute a part of the contingent or general fund thereof. Id., § 62.

296. VILLAGE CEMETERIES; TAXPAYERS MAY DIRECT PURCHASE; EXPENSE; TITLE.—The taxpayers of any incorporated village at any meeting thereof lawfully convened, may, by resolution, direct the trustees of such village to purchase suitable lands for a burying ground for such village, or lands in addition to any burrying ground now owned by said village, upon such terms and conditions, not inconsistent with this act, as such meeting shall prescribe; but the whole expense of purchasing such ground or additional lands in any village, fencing the same, and putting it in proper condition to be used as a burying ground, shall not exceed ten thousand dollars, unless the population of the village shall exceed four thousand persons, nor more than twenty thousand dollars in any case. And the title of such burying ground, when so purchased, shall be vested in such village by its corporate name, and shall be inalienable, except in the manner and for the purposes hereinafter mentioned. L. 1847, ch. 209, § 1, as amd., L. 1872, ch. 696.

297. TAX.—No such resolution shall have any force or effect, unless it shall provide for imposing, levying and collecting a general tax upon the taxable property in such village, sufficient to pay all the expenses of such purchase, and fencing the lands so purchased, and putting them in a proper condition to be used for a burying-ground, to be levied and collected within one year, or in equal portions within three years from the time of the adoption of such resolution, which, so far as respects the levying and collecting of such tax, shall not be altered. And every such tax shall be collected in the manner, and within the time specified in this section, and when so collected, shall be applied to the purpose in this section specified, and to no other. Id., § 2.

298. NOTICE OF MEETING.—No such resolution for the purchase of a burying ground, and for imposing, levying and collecting such tax, shall be passed at any such meeting, by virtue of the provisions of this act, unless notice of an intention to move for the adoption of such a resolution, at such meeting, shall be given, previous to holding the same, by publishing such notice at least once in each week, for four successive weeks, in a public newspaper, published in the village in which such meeting is to be held, or in case no newspaper be published in such village, by posting up such notice in at least ten public places in such village, at least thirty days before the time of holding such meeting. And before any such resolution shall be adopted, proof, by affidavit, of publishing or posting such notice as herein provided, shall be filed with the trustees of such village. Id., § 3.

299. MANAGEMENT.—Such trustees, shall, from time to time, make such ordinances, as they shall think proper, not inconsistent with the laws of this State, or of the United States, in respect to such burying ground, the conveyance of lots therein to individuals for the purpose of interments, interments in such lots and portions of such ground not so conveyed and the management of such ground; and may enforce such ordinances by penalties not exceeding twenty dollars, to be sued for and recovered with costs, in the corporate name of the village, for its use in any court having jurisdiction thereof. Id., § 4.

300. LAYING OUT AND TRANSFER OF LOTS.—Such burying ground shall be laid out into suitable lots, pursuant to the ordinances of such trustees, and they may, on such terms and conditions as shall be thereby prescribed, and for such prices as shall be agreed to by them, on behalf of such village, convey any of such lots to individuals, for the sole purpose of making interments therein, by conveyances which may be acknowledged and recorded as other conveyances of real estate, and which shall be recorded by the clerk of such village, in a suitable book to be kept by him; but no such conveyance shall be executed for any such lot until the price thereof shall be paid to such village. Id., § 5.

301. STRANGERS, HOW INTERRED.—It shall be the duty of the trustees of every village in which there shall be a burying ground, purchased by means raised by a general tax, upon the taxable property in such village, to reserve a reasonable portion of such ground for the interment of strangers, and other persons who may die in such village, under such circumstances that it would be unreasonable to require payment for the privilege of making such interment. Id., § 6.

302. RECORD OF INTERMENT TO BE KEPT.—It shall be the duty of the trustees of every village in which there shall be a burying ground so purchased, to cause an accurate record to be kept of every interment therein; and the time when made, and the name, age, and place of birth of every person buried therein; when these particulars can be conveniently ascertained; and such record shall be so kept as to show the lot and part of the lot in which each interment shall be made. Id., § 7.

303. TAX FOR IMPROVING BURYING GROUND.—A general tax, not exceeding one hundred and fifty dollars in any one year, may be imposed, levied and collected, on the taxable property in any village owning a burying ground, for the purpose of improving the same; such tax shall be imposed in the manner prescribed by law for imposing such general taxes in such village, as are now authorized by law to be imposed thereon for

village purposes; and when collected, shall be applied to improving such burying ground. Id., § 8.

303a. ELECTORS OF TOWN MAY CHOOSE TRUSTEES OF BURIAL-GROUNDS.—The electors of any town may, at an annual town meeting, choose three or five persons to act as a board of trustees of any burial-grounds within the limits of and belonging to the town, as such electors may designate, and direct the supervisor of the town to convey by deed to such board of trustees, and their successors in office, for the purposes hereinafter mentioned, the lands already composing such grounds; and also any other lands that may be hereafter acquired for the purpose of enlarging such grounds. Such electors may also fill any vacancies that may occur in the board of trustees. Such boards of trustees and all boards of trustees, heretofore created, pursuant to chapter forty-six of the laws of eighteen hundred and seventy-three, are hereby declared to be corporate bodies, under the name of the board of trustees of the cemetery, for which they are chosen respectively, capable of suing and being sued as such, and of taking and holding gifts and bequests of personal property for the care and improvement of the cemeteries under their charge, or any lot therein. L. 1892, ch. 569, as amd., L. 1894, ch. 418.

304. INCORPORATED VILLAGES MAY ACQUIRE LANDS FOR PARK.—It shall be lawful for any incorporated village within this State to acquire by purchase, lease or gift any lands within its corporate boundaries or adjacent thereto or within one mile thereof to be used as a public park under the control of the trustees of the village, and subject to such regulations as they may prescribe; but the total value of lands so acquired by any village shall not exceed three per cent of the assessed value of its taxable property; and whenever the board of trustees of any village shall have been previously authorized so to do by a vote of the majority of the electors of the village voting thereon at any annual or special meeting duly called of such electors, they may acquire any lands for such purpose, and contract therefor, and cause to be raised by taxation upon the taxable property of the village, and by installments, if they shall see fit, such sum or sums as may be necessary to procure the title thereto and annually thereafter such sums as may be necessary to meet the expense of the care, preservation and proper inprovement of the lands acquired for the use aforesaid. L. 1888, ch. 525, § 1.

NOTE.—As to the formation of park associations. See L. 1888, ch. 293, § 1.

305. ID.—It shall be lawful for the common council of any city, the trustees of any incorporated village or the trustees of any incorporated cemetery association, in this state (although such

cemetery is disconnected from and out of the limits of any city or village) to acquire by deed, devise or otherwise, such land as it may require for burial purposes and the proper ornamentation in connection therewith, or land for such purposes, in addition to such land as it may already hold, or is authorized to hold; and to hold, use and possess the same in like manner with the like rights privileges and authority, and subject to the like duties and liabilities as apply to the other lands so held by said city, village or cemetery incorporation.

The provisions of this act shall not apply to the counties of New York, Kings, Queens and Westchester. L. 1892, ch. 518.

CHAPTER XV.

MISCELLANEOUS PROVISIONS.

306. POWERS OF INSPECTORS OF ELECTION.—At any election held in such village the inspectors presiding shall have the powers of town boards at the election of town officers; and all the laws applicable to such elections shall apply to any election held under this act, and the proceedings of the same, so far as applicable and not inconsistent with this act. The inspectors shall be subject to the provisions of this act as to elections. L. 1870, ch. 291, T. 8, § 1.

307. EVIDENCE OF INCORPORATION OF VILLAGE.—The certificate of the inspectors of election presiding at the first or second election at which the question of incorporating the village was decided affirmatively, or a copy of the same, certified, by the county clerk of the county in whose office it shall be filed and recorded, with his seal of office, shall be final and conclusive proof of the incorporation of such village and the regularity thereof, in all courts and places, and in all actions and proceedings, except in case of an appeal from the election as hereinbefore provided. Id., § 2.

308. CERTIFICATE OF ELECTION TO BE FILED.—The inspectors presiding at any election in the village, excepting one relating to the incorporation of the village, shall file their certificate of election within ten days after such election, with the village clerk, and such certificate, or a copy thereof certified by such clerk, with the seal of the corporation attached, shall be presumptive evidence of the truth of the statements set forth in such certificate, and of the validity of such election, in all courts and places, actions and proceeding. Id., § 3.

309. CONVEYANCES BY VILLAGE, HOW EXECUTED.—All conveyances by the village shall be in its corporate name,

and be executed by the president thereof, authorized by resolution of the board of trustees, with the corporate seal annexed. Id., § 4.

310. RETURN OF UNPAID TAXES AND ASSESSMENT-ROLL AS EVIDENCE.—The return of any tax or assessment by the collector or the village clerk as unpaid, or a copy of the same certified by said clerk, with the corporate seal attached, shall be presumptive evidence of the truth of the statements in such return, in all courts and places, and in all actions and proceedings. And any assessment-roll filed with the clerk, or a copy of the same certified by him, with the corporate seal attached, shall be presumptive evidence of the contents thereof and regularity of such assessment, in all courts and places, actions and proceedings, and of the right to levy any tax or make any assessment therein mentioned. Id., § 5.

311. ACTIONS TO RECOVER PENALTIES; HOW BROUGHT.—All actions brought to recover any penalty or forfeiture under this act, or under the rules, by-laws and ordinances made in pursuance of it, shall be brought in the corporate name of the village, and in such action it shall be lawful to declare or complain generally for such penalty or forfeiture, stating the section of this act, or rule, by-law or ordinance under which the penalty or forfeiture is claimed, and briefly setting forth the violation thereof for which the complaint is made. Id., § 6.

312. SAME: PROCEEDINGS THEREIN; IMPRISONMENT FOR NON-PAYMENT OF JUDGMENT.—The first process in any suit brought by the village for a penalty under this act, or a rule, by-law or ordinance adopted by the board of trustees in pursuance of said act, shall be a summons or warrant. If the defendant in such action has no property, personal or real, whereof the judment can be collected, the execution shall require the defendant to be imprisoned in the county jail of the county in which the village is situated, or in case such village shall be located in two or more counties, then in the county jail of either of said counties, for a term not exceeding ten days. Id., § 7, as amd., L. 1878, ch. 59, § 9.

313. PROOF OF PUBLISHING OR POSTING NOTICES, ETC.—The affidavit of the party publishing or posting any notices required to be posted or published by the provisions of this act, or by any rule, by-law or ordinance made in pursuance thereof, of such posting or publishing, shall be deemed presumptive evidence thereof in all courts and places and in all actions and proceedings. Id., § 8.

314. CREATION OF DEBTS AND LIABILITIES, WHEN PROHIBITED, ETC.—Money cannot be borrowed on the credit

of, nor can any debt be created in behalf of, the village, payable at a future time; nor can any debt or liability be incurred by the village, except for ordinary expenditures of the village or highway purposes within the income of the current year, for the ordinary expenditures or highway purposes applicable to such purposes. When the raising of any money for a special purpose as an extraordinary expenditure, as provided in this act, has been voted, the amount may be borrowed, or a liability by contract for the special purpose may be incurred, not exceeding the expense ordered, until the amount can be raised by a tax as herein provided. L. 1870, ch. 291, T. 8, § 10.

315. COMPETENCY OF INHABITANTS AS JUSTICES, ETC.—In actions brought by or against the village, it shall not be an objection against the person acting as justice or juror in any such action, that he is a resident of the village or subject to taxation therein; and it shall not be necessary for the village in an action or proceeding to which it shall be a party to give any undertaking or security to appeal, or to obtain a provisional remedy, or to take or to prevent any other proceeding. But the village shall be liable to the same extent as if it had given the bond, undertaking or security required by rule or by law. Id., § 9, as amd., L. 1892, ch. 222.

316. SAME: VIOLATION A MISDEMEANOR, AN OFFICERS PERSONALLY LIABLE.—Any officer or person who shall assume to create a liability or appropriate any money or property of the village, contrary to the provisions of this act, or shall assent thereunto, shall be personally liable for such debt or liability, and to the village for such money or property ; and each of the trustees present when such violation shall have been committed, shall be deemed to have assented thereunto unless he shall express his dissent and request the same to be entered upon the record of proceedings. Any willful violation of this section shall also be a misdemeanor. Id., § 11.

317. TRUSTEES NOT TO BE INTERESTED IN CONTRACTS.—No member of the board of trustees shall be interested in any contract to which the village shall be a party. Id., § 12.

318. RECORD OF BOARD OF TRUSTEES.—The board of trustees shall cause to be kept a record of its proceedings ; all votes shall be taken by ayes and noes, when required by one of the trustees, and shall be entered in such record, and such record shall contain the names of the members of the board present and voting on any question, and the affirmative and negative votes of the members so voting. Id., § 13.

44 Hun, 581 ; 57 Hun, 277.

319. SUMMARY PROCEEDINGS AGAINST VAGRANTS AND DISORDERLY PERSONS.—When any person complained against as a vagrant, disorderly person, riotous person, or person keeping a disorderly house or a house of ill-fame or assignation or prostitution, under the provisions of this act, or any rule, by-law or ordinance made in reference to such persons under this act, shall be brought before an officer having jurisdiction of such matters, he shall, unless the offense complained of be indictable at common law, proceed forthwith to hear, try and determine the complaint against said person, as provided by law for the offense on which such person is arrested, or such officer may in his discretion adjourn the hearing on cause shown, not to exceed five days, and in the meantime commit the offender to the village lock-up or place of confinement or county jail, until such day, or suffer him or her to go at large on executing a bond approved by the said officer, conditioned that he or she will appear on the adjourned day, when trial shall be had. Id., § 14.

320. REFUSAL BY VILLAGE OFFICER TO DELIVER UP RECORDS, ETC.; PENALTY.—In case any person having been an officer of the village shall refuse or neglect to deliver to his successor in office, within ten days after notification and request, all the moneys, books, papers, records, property and effects of every description in his possession or under his control belonging to such village or appertaining to his office, he shall forfeit and pay for the use of the village the sum of twenty-five dollars for each and every day he shall so neglect or refuse, and also all damages caused by such refusal or neglect, to be recovered by suit by such village. Id., § 15.

321. ORDINANCES AND BY-LAWS; EVIDENCE.—Every ordinance, by-law, rule, resolution or proceeding of the board of trustees may be read and received in evidence in all courts of justice and in all places, and in all actions or proceedings, either from the original record, kept by the clerk of said village, or from a copy of such ordinance, by-law, rule, resolution or proceeding, certified under the corporate seal by the clerk, or from any printed volume containing such ordinance, by-law, rule, resolution or proceeding, with the certificate of the clerk that such volume contains a correct copy of such ordinance, by-law, rule resolution or proceeding, and that the same was printed under authority of the board of trustees. Id., § 16.

44 Hun, 581.

322. WHO ARE VAGRANTS.—The following persons are vagrants:

1. A person who, not having visible means to maintain himself lives without employment.

2. A person who, being an habitual drunkard, abandons, neglects or refuses to aid in the support of his family.

3. A person who has contracted an infectious or other disease, in the practice of drunkenness or debauchery, requiring charitable aid to restore him to health.

4. A common prostitute who has no lawful employment, whereby to maintain herself.

5. A person wandering abroad and begging, or who goes about from door to door, or places himself in the streets, highways, passages or other public places, to beg or receive alms.

6. A person wandering abroad and lodging in taverns, groceries, ale-houses, watch or station- houses, out-houses, market places, sheds, stables, barns or uninhabited buildings, or in the open air, and not giving a good account of himself.

7. A person, who, having his face painted, discolored, covered or concealed, or being otherwise disguised, in a manner calculated to prevent his being identified, appears in a road or public highway, or in a field, lot, wood or inclosure.

8. Any child between the age of five and fourteen, having sufficient bodily health and mental capacity to attend the public school, found wandering in the streets or lanes of any city or incorporated village, a truant, without any lawful occupation. Code Crim. Pro., 887.

323. WHO ARE DISORDERLY PERSONS.—The following are disorderly persons under the provisions of the Code of Criminal Procedure :

1. Persons who actually abandon their wives or children, without adequate support, or leave them in danger of becoming a burden upon the public, or who neglect to provide for them according to their means.

2. Persons who threaten to run away and leave their wives or children a burden upon the public.

3. Persons pretending to tell fortunes, or where lost or stolen goods may be found.

4. Keepers of bawdy houses, or houses for the resort of prostitutes, drunkards, tipplers, gamesters, habitual criminals, or other disorderly persons.

5. Persons who have no visible profession or calling by which to maintain themselves, but who do so, for the most part, by gaming.

6. Jugglers, common showmen and mountebanks, who exhibit or perform for profit, puppet shows, wire or rope dancers or other idle shows, acts or feats.

7. Persons who keep, in a public highway or place, an apparatus or device for the purpose of gaming, or who go about exhibiting tricks or gaming, therewith.

8. Persons who play, in a public highway or place, with cards, dice or any other apparatus or device for gaming.

9. Habitual criminals within the provisions of this Code. Code Crim. Pro., § 899.

324. DISORDERLY PERSONS DEFINED BY VILLAGE ACT.—All persons found intoxicated in the streets of the village, or persons who shall be guilty of noisy, riotous or tumultuous conduct, disturb the quiet and peace of the village or of any meeting or assembly therein; all persons who shall willfully give a false alarm of fire; all persons who shall publicly use any profane, vulgar or obscene language or conduct in any street or public place in said village; all persons who shall willfully and maliciously break, mar, injure, remove or deface, any building, fence, awning, sign, signboard, tree, shrubbery or other ornamental thing in said village; all persons who shall remove from or pile up before any door or on any sidewalk or street, boxes, casks or other things for the purpose of annoyance or mischief, or who shall willfully tear down, destroy or mutilate any notice or handbill lawfully posted up in said village; all persons who shall incite or induce dogs to fight in any of the streets or public places in said village; all persons, who, at the time of any fire in said village, shall be guilty of any insubordination or of any disorderly conduct, or who shall attempt to obstruct the operations of the fire department, or shall willfully neglect or refuse to obey, or attempt to prevent or obstruct the execution of, the orders of the trustees or officers of the fire department, shall be deemed and are hereby declared to be disorderly persons under this act, and under any rule, by-law or ordinance adopted in pursuance thereof for the punishment of disorderly persons. L. 1870, ch. 291, T. 8, § 10.

325. ARREST OF VAGRANTS AND DISORDERLY PERSONS.—Any trustee or any police constable is hereby authorized to arrest any vagrant or disorderly person, with or without process, and take him or her forthwith before the proper officer. If such officer cannot be found, the persons arresting may detain the person arrested, not to exceed twenty-four hours, until the proper officer to try such person is found. Id., § 19.

326. ASSESSMENTS A LIEN.—Every assessment made by the persons acting as assessors of the village shall be and remain a lien on the lot or lands assessed, in the same manner, and to the same effect, as town and county taxes, from the time of filing the assessment-roll as herein directed, until paid or otherwise satisfied. Id., § 20.

327. NO PERSON TO HOLD MORE THAN ONE OFFICE.—No person shall hold at the same time more than one of the offices created by this act, unless otherwise provided herein. Id., § 21.

328. SERVICE UPON JOINT TENANTS AND LESSEES.—Whenever any real estate in said village is owned by two or more persons jointly or as tenants in common, a notice served on one of such persons shall be sufficient notice to all and for any purposes requiring a notice under this act, and whenever said owners reside out of the village it shall be sufficient to serve such notice on the occupant or lessee of such real estate except as herein otherwise provided. Id., § 22.

329. RESIGNATIONS.—All resignations of any officers under this act, shall be made to the trustees, subject to their acceptance. Id., § 23.

330. SURPLUS FUNDS, HOW APPLIED.—If, at the end of the financial year, there shall be a surplus of funds with the corporation, over and above the expenses of the year, such surplus shall be applied to the next year's expenses. Id., § 24.

331. ELECTIONS, WHEN NOT TO BE HELD.—If a town meeting shall occur on the day appointed for the election of village officers by this act, in the town in which the village or any part thereof shall be situated, then such village election shall be held on the Wednesday next after the Tuesday appointed by this act, for such village election. Id., § 25.

332. TRUSTEES' COMPENSATION AS ASSESSORS.—The president and trustees of the village shall not receive any compensation for their services as such, but the trustees who shall act as assessors shall receive the same pay per day as town assessors for each day actually and necessarily spent by them in making the assessment. Id., § 26, as amd., L. 1883, ch. 459.

333. PROVISO AS TO CONTROL OF BRIDGES; EXPENDITURES ON BRIDGES, HOW CHARGED.—The provisions in this act giving the board of trustees of a village power to construct, maintain and repair bridges within the village bounds, and making them commissioners of highways, and making the territory of the village a separate highway district, subject to the board of trustees alone, shall be construed as divesting the commissioners of highways for any town in which a bridge may be located, of all power, control or jurisdiction over the same, and of relieving such town highway commissioners of all duties in regard to the same, and as relieving such town from the expense of constructing, maintaining or repairing the same, provided that such bridge is within the bounds of a village incorporated under this act, and all power, control, jurisdiction and duty heretofore vested in and imposed upon such town commissioners of highways, for such town in regard to such bridge within such village territorial limits, are hereby vested in and imposed upon the board of trustees of such village, and the expense of construction, maintenance

or repair of such bridge or part of a bridge, shall be a charge upon the taxable property of the village in which the said bridge or part of a bridge shall be located, and shall be paid out of the corporate funds.

All of the counties in this state are hereby exempted from the provisions of this act except the county of Westchester. Id., § 27, as amd., by L. 1890, ch. 542.

See also L. 1885, ch. 450, as amd., L. 1886, ch. 556.

35 Hun, 330.

334. APPLICATION OF THIS ACT.—The provisions of this act shall be applicable only to villages incorporated under it Id., § 28.

335. EXPENSES OF INCORPORATION, HOW PAID.—The board of trustees of any village incorporated under this act are authorized to determine the expenses of effecting the incorporation, and pay the same out of the corporate funds. Id., § 29.

336. VILLAGES MAY REINCORPORATE UNDER THIS ACT; PROCEEDINGS THEREUPON.—Any village heretofore incorporated may become a corporation under the provisions of this act and possess the powers given thereby, by a vote in favor thereof, at any annual or special election. Such vote shall be taken on a resolution adopted by the board of trustees, submitting the question of incorporation under this act to the qualified electors of the village. All persons before qualified to vote at an election in such village, may vote at such election. Notice shall be given of such election by the trustees, setting out the resolution to be voted on, as is required to be given by this act in regard to special elections for extraordinary expenditures. If at such election the majority of the ballots cast shall have thereupon the word "Yes," then the village shall become and be incorporated under this act, and shall succeed to and possess all the property, rights of property and the rights of action existing at the time of incorporation under this act in favor of such village; and all actions, proceedings and suits then existing on the part of such village, or against such village, or rights of action against such village then existing shall, after such vote, be unaffected thereby and be subject to the provisions of law under which they originated.

The persons who had before presided at elections for village officers in such village or a majority of them, shall preside at the elections directed in this section, and shall count the ballots and declare the result forthwith and make return, setting out the resolutions voted on the notices of election and the number of ballots cast with "Yes" or with "No" thereon, and shall file

such return with the clerk of the county in which the village is located within ten days after the election, and verify such return with the oath of the inspectors. Such return or a copy thereof, certified by such county clerk, with his official seal, shall be final and conclusive evidence of such incorporation and the regularity thereof, in all courts and places and in all actions and proceedings. In case it appears from such return that a majority of the ballots were cast with "Yes" thereon, the board of trustees shall, within ten days after filing such return or within ten days after the passage of this act, appoint a special election in such village, to be held within twenty days, for the purpose of electing the officers provided by this act for such village. They shall give ten days' notice of the time and place of such election, which notice shall be published in all the newspapers printed in such village, and by posting the same in six public places in the village. At such election the same persons who are required to act as inspectors of election, at the election above provided for in this section, shall preside as inspectors of election; and such election shall be conducted and its results certified in all respests as regular annual elections are required to be conducted and the results certified under this act; and the persons elected to office at such election shall qualify and be clothed with the same powers and charged with the same duties as if elected at an annual election. The trustees shall submit at such special election the detailed statement required by section eleven * of title three of this act. The trustees and other officers elected under the prior chapter shall continue in office and discharge their duties under that charter until the election and qualification of the new officers as above provided for. Id., § 30, as amd., L. 1875, ch. 339.

99 N. Y., 600; 26 Hun, 282.

337. RECORDING ELECTION RETURNS FOR INCORPORATIONS.—The county clerk shall record all returns of inspectors of election for the incorporation of villages held under this act, in the records for the recording of deeds, or in a book to be specially provided for that purpose; and in case such village shall be located in two or more counties, then the county clerk of each county in which such village may be located shall record such returns, as is herein provided. Every such county clerk shall within ten days after such returns are filed send to the office of the Secretary of State a statement of the name and date of incorporation of such village, and the names of the town or towns, and county or counties in which such village is located. For the recording of such certificate, and making such statement the county clerk shall be paid the fees legally chargeable for the

* This subject, § 74.

recording of deeds and the making of certified copies thereof. Id., § 31, as amd., L. 1878, ch. 59, § 10, and L. 1887, ch. 514, § 2.

338. REPEAL; EXCEPTION.—All other general acts and laws of this State for the general incorporation of villages are hereby repealed, as to the future incorporation of villages, except sections ninety and ninety-one ** of chapter four hundred and twenty-six of the laws of eighteen hundred and forty-seven, which sections shall form a part of this act, and shall apply to all villages already incorporated or which may hereafter be incorporated under this act. In case there shall be any village which has been incorporated under a general act or acts for that purpose, such act or acts shall continue to be of effect as to such villages so incorporated until they may become incorporated under this act; and after their becoming so incorporated, shall cease to be operative as to such village, except as controlled by the provisions of this act. Id., § 32, as amd., L. 1874, ch. 628, § 1.

339. EXTENSION AND DIMINUTION OF VILLAGE BOUNDARIES.—The board of supervisors of a county having, as shown by the then last preceding federal or State enumeration, a population of not more than eighty thousand inhabitants, are hereby authorized and empowered to extend the boundaries of any incorporated village within such county, upon the petition of the president and board of trustees of such village and of one-half of the electors resident within the portion of territory sought to be included, who shall be liable to be assessed for the ordinary and extraordinary expenditures of such village, if so extended, by a vote of a majority of all the supervisors elected, to be taken by yeas and nays, provided, that no act, ordinance or resolution for such purpose shall be valid and operative unless it shall receive the affirmative vote of the supervisors of the town or towns from which the additional territory is to be taken, in which such village is situated, and of the supervisor or supervisors, if any, of such village. And the said boards of supervisors are also authorized and empowered to diminish the boundaries of any incorporated village within their respective counties, so as to exclude from such incorporation any portion of the territory embraced therein, upon the petition of two-thirds of the electors resident within the portion of territory sought to be so excluded, who shall be liable to be assessed for the ordinary and extraordinary expenditures of such village, by a vote of a majority of all the supervisors elected, to be taken by yeas and nays, provided, that no act, ordinance or resolution for such purpose shall be valid and operative unless it shall receive the affirmative vote of the supervisor or

** Id., §§ 340, 341.

supervisors, if any, of such village. Id., § 33, as amd., L. 1871, ch. 870, § 5, and L. 1893, ch. 503.

64 Bart., 353.

NOTE.—This is limited to villages incorporated under the act of 1870. 23 N Y. Supp., 801.

340. MEETING TO DETERMINE WHETHER VILLAGE SHALL CONTINUE INCORPORATED; PROCEEDINGS IF DISSOLUTION VOTED.—When an application in writing, signed by at least one-fourth as many persons entitled to vote for village officers in any incorporated village, as voted for such officers at the next preceding election thereof, shall be made to the trustees of such village to call a meeting of the electors thereof to determine whether the same shall continue to be an incorporated village, such trustees shall call such meeting and preside as inspectors thereat, and the same shall be notified and held, the votes given thereat canvassed, the result declared, and a certificate thereof made and recorded in the same manner, as nearly as practicable, as in case of the election of village officers. The polls at such meeting shall be kept open from ten o'clock in the forenoon to four o'clock in the afternoon; and every such elector may vote thereat by a ballot having thereon the word "Yes" or the word "No." If a majority of all the ballots given shall have thereon the word "No," the question of disincorporation shall be again submitted to the voters at the first regular village election thereafter, provided a period of not less than six months shall intervene between the time of holding such meeting and the first regular village election thereafter; but if a period of six months shall not intervene between the time of holding such meeting and the first regular village election thereafter, then the question shall be submitted at the second regular village election after the holding of such meting. The ballots cast on the question of disincorporation at such regular village elections shall be deposited in a separate box, and shall have thereon the word "Yes" or the word "No," and shall be canvassed, the result declared, and a certificate thereof made and recorded in the same manner as in case of the election of village officers. If a majority of all the ballots given shall have thereon the word "No," such village shall, at the expiration of six months from the time of holding such second meeting, cease to be an incorporated village, and within that period such trustees shall call a special meeting of such electors, to direct as to the disposition of the property of such village, and at such meeting such electors may direct such property as shall remain after paying all claims for which such village shall be liable, to be disposed of in such manner as they shall deem proper. At the expiration of the said six months, all the records, books and papers belonging to such

village shall be deposited with the town clerk of the town in which the same shall be located, or if located in more than one town, then with the town clerk of one of such towns, whose duty it shall be to preserve the same with the town records and papers of his town, and the supervisor of such town, or if such village is located in more than one town, the supervisors of such towns shall be the trustee or trustees of the property of such village. No suit in which such village shall be a party, nor any claim for or against such village, shall be affected by its ceasing to be an incorporated village. L. 1847, ch. 426, § 90, as amd., L. 1880, ch. 172.

341. SAME; DEBTS OF VILLAGE, HOW PAID.—At the meeting to be called after any such village shall have determined to dissolve its incorporation, it shall be lawful to raise by tax any sum that may be necessary to pay and discharge all the existing debts and liabilities of the said village. Id., § 91.

The rest of the above act was repealed by L. 1870, ch. 291, T. 8, § 32. (§ 171, ante.)

342. FREE KINDERGARTEN SCHOOLS.—The board of education, or the public school authorities of any city or village located in a county having less than one million inhabitants, and employing a superintendent of schools, may establish and maintain one or more free kindergarten schools. The money for the support of such schools shall be raised in like manner as for the support of the other public schools of the city or village.

No child under the age of four years shall be admitted to these schools and the local school authorities are hereby empowered to fix the highest age limit of children who may attend.

All teachers employed in these schools shall be licensed in the same manner as teachers employed in the other public schools of this State, and shall be entitled to their distributive share in the district quotas.

The attendance of children under the age of five years who may be enrolled in these schools shall be reported separately, and shall not be counted in the distribution of public money. L. 1893, ch. 484.

343. ACTION FOR CUTTING OR INJURING TREES.—If any person cuts down or carries off any wood, underwood, tree, or timber, or girdles or otherwise despoils a tree on the land of another, without the owner's leave; or on the common, or other lands of a city, village or town, without having right or privilege in those lands, or license from the proper officer; an action may be maintained against him, by the owner, or the city, village or town, as the case may be. Code Civ. Pro., § 1667.

344. ACTION BY TAXPAYER AGAINST PUBLIC OFFICER.—An action to obtain a judgment, preventing waste of, or injury to, the estate, funds or other property of a county, town, city or incorporated village of the State, may be maintained against any officer thereof, or any agent, commissioner or other person, acting in its behalf, either by a citizen, resident therein, or by a corporation, who is assessed for or is liable to pay, or within one year before the commencement of the action, has paid a tax thereon. This section does not affect any right of action in favor of a county, city, town or incorporated village, or any public officer. Code Civ. Pro., § 1925, as amd., L. 1892, ch. 524.

NOTE.— See, also, L 1892, ch. 301.

345. LIENS FOR WORK OR MATERIALS UNDER MUNICIPAL CONTRACTS.—Any person or persons who shall hereafter as laborer, mechanic, merchant or trader, in pursuance of, or in conformity with, the terms of any contract made between any person or persons, firms or corporations, and any municipal corporation, county, town, incorporated city or village in the State of New York, perform any labor or furnish any material toward the performance and completion of any contract made with said municipal corporation, county, town, city or village, on complying with the second section of this act, shall have a lien for the value of such labor or materials, or either, upon the moneys in control of said municipal corporation, county, town, city or village, due or to grow due under said contract with said municipal corporation, county, town, city or village, to the full value of such claim or demand, and these liens may be filed and become an absolute lien to the full and par value of all such work and materials, to the extent of the amount due or to grow due on said contract, in favor of every person or persons, firms or corporations who shall be employed or furnish materials to the person or persons with whom said contract with said municipal corporation, county, town, city or village is made, or the subcontractors of said person or persons, their assigns or legal representatives, provided that no municipal corporation, county, town, city or village shall be required to pay a greater amount than the contract price or value of the work and the materials furnished when no specific contract is made in the performance of said work by the contractor. L. 1878, ch. 315, as amd., L. 1892, ch. 629.

346. NOTICE OF CLAIMS.—At any time before the whole work to be performed by the contractor for the municipal corporation, county, town, city or village, is completed or accepted by the municipal corporation, county, town, city or village, and within thirty days after the same is completed or accepted any claimant may file with the head of the department or bureau having charge of said work, and with the financial officer of said municipal corporation, county, town, city or village, notice, stating the resi-

dence of the claimant, verified by such claimant's oath or affirmation, stating the amount claimed, from whom due, and if not due, when it will be due, giving the amount of the demand after deducting all just credits and offsets, with the name of the person or persons, firms or corporations, by whom employed, or to whom materials were furnished; also a statement of the terms, time given, conditions of the contract, and also that the work was done or materials were furnished to said contractor, and were actually performed or used in the execution or completion of said contract with said municipal corporation, county, town, city or village, but no variance as to the name of the contractor shall affect the validity of the said claim or lien. Id., § 2, as amd., L. 1892, ch. 629.

347. LIENS TO BE ENTERED.—The financial officer of said municipal corporation, county, town, city or village, shall enter the claims in a book kept for that purpose by him, called the "lien book." Such entry shall contain the name and residence of the claimant, the name of the contractor, the amount and date of the filing, and a brief designation of the contract upon which the claim is made. Id., § 3, as amd., L. 1892, ch. 629.

348. ACTION TO FORECLOSE.—No lien provided for in this act shall be binding upon the property therein described unless an action be commenced within ninety days from the filing of the same, and a notice of pendency of said action be filed with the financial officer of the municipal corporation, county, town, city or village. Id., § 4, as amd., L. 1892, ch. 629.

349. WHEN LIEN ATTACHES.—The lien shall attach from the time of filing thereof to the extent of the liability of the contractor for the claim preferred upon any funds which may be due or to grow due to said contractor from said municipal corporation, county, town, city or village, under the contract against which the lien is filed. Id., § 5, as amd., L. 1892, ch. 629.

350. ENFORCEMENT OF CLAIMS.—Any claimant who has filed the notice mentioned in the second section of this act, may enforce said claim against the said fund therein designated, and against the person or persons, firms or corporations liable for the debt by a civil action. Actions to determine or terminate said liens may be commenced by the contractor or said municipal corporation, county, town, city or village, in any court of competent jurisdiction. Id., § 6, as amd., L. 1892, ch. 629.

351. PARTIES TO ACTION.—The plaintiff must make all parties who have filed claims, the contractor, and the said municipal corporation, county, town, city or village, parties defendant, and as to all parties against whom no personal claim is made, the plaintiff may, with the summons, serve a notice stating briefly

the object of the action, and that no personal claim is made. But all parties who have filed claims under this act may, by answer in such action, set forth the same, and the court in which the action is brought may decide as to the extent, justice and priority of the claims of all the parties to the action. Id., § 7, as amd., L. 1892, ch. 629.

352. JUDGMENT IN ACTION TO FORECLOSE.— The court in which the action is brought shall determine the validity of the lien, the amount due from the debtor to the contractor under his contract, and from the contractor to the respective claimants, and shall render judgment, directing that the said municipal corporation, county, town, city or village shall pay over to the claimants for work done and materials furnished in the execution of the said contract or contracts, whose claims or liens it shall hold to be valid and just, in the order of their priority as determined by said court, to the extent of the sum found due to said claimants from their contractor so much of said funds or money which may be due from the said municipal corporation, county, town, city or village, to the contractor, under his contract, against which the lien is filed, and* will satisfy their, liens or claims, with interest and costs, to the extent of the amount due from said municipal corporation, county, town, city or village to said contractor. The judgment rendered under this act may be enforced by execution, and an appeal may be taken therefrom in the same time and manner as in civil actions. Id., § 8, as amd., L. 1892, ch. 629.

353. SUCCESSIVE LIENS.— In case of successive liens, or a number of liens in favor of different persons, their rights and priorities shall be determined as follows: Persons standing in equal degrees as co-laborers or various persons furnishing materials shall have priority according to the filing of these liens. Where several lien notices are filed for the same demand, the judgment shall provide for the proper payments according to priority, so that, under liens filed double payments shall not be required. Id., § 9.

354. CONSOLIDATING ACTIONS.—When separate actions are commenced, the court in which the first action was brought may, upon the application of the said municipal corporation, county, town, city or village, consolidate them. Id., § 10, as amd., L. 1892, ch. 629.

355. COSTS.— Costs in all actions shall rest in the discretion of the court and shall be awarded to or against the plaintiff or defendants, or any or either of them, as may be just. Id., § 11.

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* So in original.

356. PERSONAL ACTIONS.—Nothing contained in this act shall be construed to impair or affect the right of any person to whom any debt may be due for work done or material furnished to maintain a personal action to recover such debt against the person liable therefor. Id., § 12.

357. DISCHARGING LIEN.—The lien may be discharged as follows: First. By filing a certificate of the claimant, or his successor in interest, duly acknowledged and proved, stating that the lien is discharged. Second. By lapse of time when ninety days have elapsed since the filing of the claim, and no action shall have been commenced to enforce the claim. Third. By satisfaction of any judgment that may be rendered in actions to foreclose said liens or claims. Id., § 13.

358. TERM "CONTRACTOR" DEFINED.—The term "contractor" as used in this act, shall be construed as meaning the person or persons, firms or corporations with whom the contract with the said municipal corporation, county, town, city or village, is made, his assigns or legal representatives. Id., as amd., L. 1892, ch. 629.

359. APPLICATION OF ACT.—This act shall apply to and include all cases and contracts under which work and materials have heretofore been, or shall hereafter be done and furnished upon any land, the title of which was, at the time of the making the contract, and now is in any municipal corporation, county, town, city or village, and for the performance of which appropriations have been, or shall hereafter be made and raised by any municipal corporation, county, town, city or village; and shall apply to and include actions now pending for work done and materials furnished under any such contract. Id., § 15, as amd., L. 1892, ch. 629.

360 TITLE OF ACT AMENDED.—The title of said chapter is hereby amended so as to read as follows: "An act to secure the payment of laborers, mechanics, merchants, traders, and persons furnishing material toward the performing of any public work in the municipal corporations, counties, towns, cities and villages of the State of New York." Id., § 16, as amd., L. 1892, ch. 629.

361. PROOF OF VILLAGE ORDINANCES, ETC.—An act, ordinance, resolution, by-law, rule or proceeding of the common council of a city, or of the board of trustees of an incorporated village, or of a board of supervisors, within the State, may be read in evidence, either from a copy thereof, certified by the city clerk, village clerk, clerk of the common council, or clerk of the board of supervisors; or from a volume printed by authority of the common council of the city, or of the board of trustees of

the village, or the board of supervisors. Code Civ. Pro., § 941, as amd., L. 1877, ch. 416.

362. FALSELY AUDITING AND PAYING CLAIMS.—A public officer, or a person holding or discharging the duties of any office or place of trust under the State, or in any county, town, city or village, a part of whose duties is to audit, allow or pay, or take part in auditing, allowing, or paying claims or demands upon the State, or such county, town, city or village, who knowingly audits, allows or pays, or directly or indirectly consents to or in any way connives at the auditing, allowance or payment of any claim or demand, against the State, or such county, town, city or village, which is false or fraudulent, or contains charges, items or claims which are false or fraudulent, is guilty of felony, punishable by imprisonment for not less than two, or more than five years, or by a fine not exceeding five thousand dollars, or by both. Pen. Code, 165.

363. UNLAWFUL INTRUSION OR BUILDING ON LANDS.—A person who intrudes upon any lot or piece of land within the bounds of a city or village, without authority from the owner thereof, or who erects or occupies thereon any hut, or other structure whatever without such authority; and a person who places, erects or occupies within the bounds of any street or avenue of a village, any hut, or other structure, without lawful authority, is guilty of a misdemeanor. Pen. Code, 467.

FORMS.

No. 1.

PETITION FOR INCORPORATION OF SUMMER RESORT HAVING PARK, ETC.

(*Ante*, page 3.)

The undersigned, inhabitants of the town of A, in the county of B, and State of New York, and including every property owner liable to taxation in, and every voter residing in the part of the said town of A described in the map filed in the office of the town clerk of B, on the day of , 18 , and which described town (or, said part of said town) does not contain three hundred resident population, but includes in its boundaries a territory not less than one-half a square mile in extent, and a park of not less than forty acres, used for a summer resort owned by an association incorporated by the State, hereby respectfully request that said territory so described in said map shall hereafter be incorporated as a village under the statute in such case made and provided, and be known by the name of M .

(Signed by all owners, liable to taxation, and every voter.)

State of New York, County of A, ss.:

On this day of , in the year one thousand eight hundred and , before me personally came (naming all the signers), described in and who executed the above petition, and each severally acknowledged the execution thereof.

D. C., Justice of the Peace.

No. 2.

CENSUS.

(*Ante*, page 4.)

State of New York, County of A, ss.:

A. B., being duly sworn, says that between the 1st day of May, 1894, and the 1st day of June, 1894, he took an accurate

census of the resident population in the following described property (describe it by metes and bounds); that the following people resided in said territory at that time:

Head of family.	Number of such family.
Andrew Jones,	Wife and three children.
William Mix.	Widower.
Thomas Towns.	Four children.
etc.	

(Signed) A. B.

Sworn to before me this 2d day of June, 1894.

THOMAS STOKES,
Justice of the Peace.

No. 3.

NOTICE AS TO SURVEY MAP, ETC.

(*Ante*, page 4.)

To all whom it may concern:

Take notice that the survey maps and verbal description of the boundaries and census of the proposed village of A have been left for examination by the public at (the tavern of Thomas Brown).

Dated June 1, 1894.

(Signed by one or more of the persons causing the making of the survey and taking of census.)

No. 4.

NOTICE OF ELECTION AS TO INCORPORATING.

(*Ante*, page 5.)

To all whom it may concern:

Please take notice that, between the hours of ten A. M. and three P. M., on the day of , 1894 (at least five weeks after leaving the map, survey, etc.), an election will be held at to determine whether the territory described in the map left on the day of , 1894, at (the tavern of Thomas Brown), shall be incorporated as a village. The said village is to be known as (give the name), and is to be bounded as follows (describe it by metes and bounds). The amount to be

expended the first year of the incorporation for ordinary expenditures is to be $. The annual elective officers of the corporation, after the first election shall be held on the day of in each and every year.

Dated .

(Signed by at least twenty of the electors resident in the village.)

No. 5.

AFFIDAVIT OF POSTING NOTICES.

(*Ante*, page 5.)

State of New York, County of A, ss.:

L. M., being duly sworn, says that on the day of , 1894 (at least thirty days before election), he did post the notice of which the annexed is a copy, in ten public places in the town of , to wit (give a list of the places).

L. M.

Sworn to before me this day of , 1894:

No. 6.

CERTIFICATE OF RESULT OF ELECTION.

(*Ante*, page 6.)

To the County Clerk of the County of A:

The undersigned, the board of inspectors for the election held on the day of , 1894, for the purpose of deciding as to the incorporation of the village of B, hereby certify that the said election was duly held on said day, between the hours of ten A. M. and three P. M., at the .

The whole number of ballots cast was..... 00,000
The number with the word "Yes" thereon was..... 00,000
The number with the word "No" thereon was..... 00,000

There is hereto annexed a copy of the notice of the holding of such election, and an affidavit of posting (or publishing) the same.

Dated .

(Signed by a majority of the inspectors.)

State of New York, County of A, ss.:

C. D. and E. F., being each duly sworn, say, each for himself, that the above certificate is true in every respect.

C. D.
E. F.

Sworn to before me this day of , 1894.

J. D.,
Justice of Peace.

No. 7.

NOTICE OF ELECTION FOR OFFICERS.

(*Ante*, page 9.)

To the Electors of the Village of M:

Take notice that on the day of , 1894, at , in such village, between the hours of ten o'clock A. M. and four o'clock P. M., an election will be held for the election of a president, a treasurer, a collector and trustees for said village.

Dated .

(Signed by the inspectors.)

No. 8.

BOND OF VILLAGE OFFICERS.

(*Ante*, page 13.)

Know all men, by these presents, that I, A. B., of the village of M, county of A, State of New York, grocer, am held and firmly bound unto said village of M, in the sum of dollars, good and lawful money of the United States, to be paid to the said village, its certain attorney or representatives, to which payment, well and truly to be made, I do bind myself, my heirs, executors and administrators, and every one of them, firmly by these presents.

Sealed with my seal, dated the day of , 1894.

Whereas, the above-bounden A. B. has been chosen (treasurer) of the said village of M, by reason whereof he will receive into his hands divers sums of money, goods and chattels and other things, the property of the said corporation:

Now, the condition of this obligation is such that, if the said A. B., his executors or administrators, at the expiration of his said office, upon request to him or them to be made, shall make and give unto such auditor or auditors as shall be appointed by the trustees of said village of M, a just and true account of all such sum or sums of money, goods, chattels and other

things as have come into his hands, charge or possession as treasurer aforesaid; and shall and do pay and deliver over to his successor in office, or any other person duly authorized to receive the same, all such balances or sums of money, goods and chattels and other things, which shall appear to be in his hands, and due by him to the said company, then this obligation to be void or else to be and remain in full force and virtue.

A. B.

Sealed and delivered in presence of:

E. F.

Acknowledgment:

State of New York, County of , ss.:

On this . day of in the year one thousand eight hundred and , before me, the subscriber, personally came , to me known to be the person described in and who executed the within instrument, and acknowledged that he executed the same.

No. 9.

OATH OF EXCISE COMMISSIONER, OR POLICE OFFICER.

(*Ante*, page 14.)

State of New York, City and County of Albany, ss.:

A. B., being duly sworn, says that he is an excise commissioner (or police captain, as the case may be) in the village of M; that he was elected to said office on the day of , 1894; that he is neither directly or indirectly connected with the manufacturing or selling of any spirituous or malt liquors, ales, wine or beer.

A. B.

Sworn to before me this day of , 1894.

C. D.,
Justice of the Peace, or
Village Clerk.

No. 10.

OATH OF OFFICERS.

(*Ante*, page 14.)

State of New York, City and County of Albany, ss.::

I, J. ., do solemnly swear (or affirm) that I will support the Constitution of the United States and the Constitution of the

State of New York, and I will faithfully discharge the duties of the office of according to the best of my ability, and I do further solemnly swear (or affirm) that I have not directly or indirectly paid, offered or promised to pay, contributed or offered or promised to contribute any money or other valuable thing as a consideration or reward for the giving or withholding a vote at the election at which I was elected to said office, and have not made any promise to influence the giving or withholding any such vote.

J. D.

Sworn to before me this day of , 1894.

C. D.,
Justice of the Peace.

No. 11.

NOTICE OF SPECIAL ELECTION.

(*Ante*, page 16.)

To whom it may concern:

Take notice that on the day of , 1894, a special election will be held at the tavern of John Stokes, in the village of M, from ten A. M. to four P. M., for the election of following officers by the said village of M, the day fixed by law for the election of said officers having passed, and no election thereof having been had (give list of officers).

E. F.,
Clerk of the Village.

No. 12.

PETITION FOR CHANGE OF NAME.

(*Ante*, page 17.)

To the Board of Trustees of the Village of M:

The undersigned taxpayers of the village of M respectfully petition your honorable body, that you will submit to the electors of said village, at the next annual village election, to be held on the day of , 1894, a petition to change the name of the village from the name of M to the name of N; said name N having been approved by the postmaster-general of the United States; and that you will then and there cause a vote to be taken on said matter.

Signed.
(Signed by twenty-five taxpayers.)

No. 13.

NOTICE OF PROPOSAL TO CHANGE NAME.

(*Ante*, page 17.)

To whom it may concern:

Please take notice that twenty-five taxpayers of the village of M have petitioned the board of trustees of said village to change the name of said village from M to N; the latter name having been approved by the postmaster-general, and the proposed change will be submitted to the electors of said village at the next annual election, which will be held on the day of , 1894, at .

(Signed by majority of trustees.)

No. 14.

CANDIDATE'S STATEMENT OF EXPENSES.

(*Ante*, page 20.)

I, A. B., hereby certify that I was a candidate for the office of president of the village of M at the election held on the day of , 1894; that the following is a statement in detail of all the moneys contributed or expended by me, directly or indirectly, by myself or through any person in aid of my election. (Make itemized statement of such expenditures.)

A. B.

County of , Town of , ss.:

A. B., being duly sworn says that the above statement made by him is in all respects true, and that the same is a full and detailed statement of all moneys so contributed or expended by him, directly or indirectly, by himself or through any other person in aid of his said election.

A. B.

Sworn to before me this day of , 1894.

C. D.,
Justice of the Peace.

No. 15.

ACCOUNT FOR WORK DONE AND MATERIALS FURNISHED.

(*Ante*, page 33.)

To the Trustees of the Village of M:

The undersigned, A. B., hereby claims payment for work done and materials furnished to said village of M, at the following items: (Give itemized bill of same.)

Dated this day of , 1894.

A. B.

State of New York, City and County of , ss.:

A. B., being duly sworn, says that the items on the above account or claim, are correct as to service, materials and disbursements therein mentioned; that such service and materials were rendered and furnished to said village of M, at the dates above set forth, and the disbursements were made for such corporation at the time stated therein, and no part of such claim has been paid.

A. B.

Sworn to before me this day of , 1894.

C. D.,
Trustee of the Village of M.

No. 16.

NOTICE OF CONSTRUCTION OF SEWER.

(*Ante*, page 37.)

To the Taxpayers of the Village of M:

Please take notice that the undersigned, sewer commissioners of said village, will meet on the day of , 1894, at the house of to hear persons interested for and against the construction of a sewerage system under the Laws of 1889, chapter 375, as amended.

Dated this day of , 1894.

(Signed by sewer commissioners.)

No. 17.

NOTICE FOR SEWER PAYABLE WHOLLY BY OWNERS.

(*Ante*, page 40.)

To whoever it may concern:

Please take notice that a petition asking for a sewer through streets, in the village of M, and signed by the owners of at least 500 lineal feet on said street, has been presented to us, said sewer to be paid for wholly by the owners of the lands situated within, and that we shall meet at ten A. M. on the day of , 1894, at the house of , and hear any persons interested for and against the construction of any portion of said sewer system.

Dated this day of , 1894.

A. B.,
C. D.,
E. F.,
Sewer Commissioners.

No. 18.

CERTIFICATE OF INCORPORATION OF FIRE COMPANY.

(*Ante*, page 53.)

The undersigned hereby certify that they are desirous of associating themselves together in a corporate capacity as a fire (hose or hook and ladder company, or as a department consisting of two or more of such companies) to be known by the name or title of the Fire Company; the particular business and object of said company being to suppress fires in the village ofof M. The name of the county in which said village is situated is M. There are to be five trustees (or directors or managers) to manage the said corporation. The names of the trustees, directors or managers for the first year are:

The said company or department shall exist years (not to exceed fifty) and the above certificate is given by authority of a resolution of the board of town officers of the town of Q, in which said village is situated, of which a copy is hereto annexed, properly certified to by the clerk of said town to be a true copy thereof.

Dated this day of , 1894.

(Signed by ten or more persons.)

State of New York, County of , ss.:

On this day of , 1894, before me, a notary public, came , to me known to be the persons who have signed the above certificate, and severally duly acknowledged that they had signed the same for the purposes therein set forth

A. B.,
Justice of the Peace.

No. 19.

NOTICE TO ABATE NUISANCE.

(*Ante*, page 58.)

M :

Complaint having been made to me that the premises (describing them) upon street, owned or occupied by you, are in such condition as to be injurious to the health of the citizens by reason of the , and having caused the said premises to be examined, and finding good and sufficient cause for said complaint, you are, in pursuance of the orders of the board of health, hereby notified and required to abate and remove such nuisance within days

from the service of this notice, or in default thereof the penalty of the law will be enforced against you.

By order of Board of Health of the village of M.

No. 20.

NOTICE TO APPEAR AND SHOW CAUSE.

(*Ante*, page 58.)

Village of M, , 189 .

Sir.—You are hereby cited to attend a meeting of the Board of Health, on , the day of , 189 , at o'clock M., at , to show cause why proceedings should not be taken against you for not complying with an order of this board to abate a nuisance of menace to the public health existing on premises No. street, of which you are owner, agent or occupant.

A. B.,
Secretary to Board of Health, Village of M.

Mr.

No. 21.

SUBPOENA.

(*Ante*, page 58.)

In the name of the People of the State of New York — To A. B., C. D. and E. F., greeting:

We command you that, all business and excuses being laid aside, you and each of you appear and attend before the Board of Health of the village of M, at a meeting thereof to be held at o'clock in the noon, to testify and give evidence in a certain matter now pending before said board in relation to a nuisance alleged to exist in said village, and for failure to attend you will be punished as by the law in such cases made and provided.

Dated

By order of the Board of Health of the village of M.

By R. T., Clerk.

No. 22.

SUBPOENA TICKET.

(*Ante*, page 58.)

By virtue of a writ of subpoena, to you directed and herewith shown, you are commanded that, all business and excuses laid

aside, you appear and attend, in your proper person, before the Board of Health of the village of M, on the day of , 1894, at o'clock in the noon, to testify all and singular what you may know in a certain matter now pending before said Board of Health in regard to a nuisance alleged to exist in said village. And for a failure to attend you will be deemed guilty of a contempt of court, and liable to pay all loss or damages sustained thereby to the party aggrieved.

Dated the day of , 18 .

By order of the Board of Health of the village of M.

D. R., Clerk.

No. 23.

WARRANT FOR REFUSING TO APPEAR.

(*Ante*, page 58.)

State of New York, County of , village of M:

THE BOARD OF HEALTH OF THE VILLAGE OF M.
v.
(The party complained of.)

In the name of the People of the State of New York — To any constable or policeman of the village of M, greeting:

Whereas, it has been made to appear to the undersigned, the Board of Health of the village of M, in said county, by due and legal proof made before said Board that E. F., of the village of M, in said county, has been duly subpoenaed to attend as a witness before the said Board of Health in the above-entitled matter, and that the said E. F. has refused or neglected, without just cause, to attend as a witness in obedience to the command of said subpoena, and R. G. having made due proof by his affidavit, to the satisfaction of said Board of Health, that the testimony of the said E. F. is material on the trial of said action.

We hereby command you to arrest the said E. F., defaulting witness, if found within this village, and to bring him before the said Health Board on the day of , 1894, at in the noon, to show cause why a fine not exceeding one hundred dollars should not be imposed upon him.

Dated

By order of Board Health of M.

By D. C., Clerk.

No. 24.

BIRTH RETURN.

(*Ante*, page 58.)

State of New York, County of , Vilage of M:
1. Name of child . 2. Sex (color or race, if other than the white). Date of birth , 18 . (Give name and number of street and ward.) 3. Place of birth. 4. Name of father (if out of wedlock and name not given, write O. W.) 5. Maiden and full name of mother . 6. Birthplace (or country) of father ; age, ; occupation, . 7. Birthplace (or country) of mother ; age, . 8. Number of this mother's previous children ; how many of them now living . 9. Name and address of medical attendant or other authorized person, in own handwriting, attest 10. Date of this return .

No. 25.

RETURN OF A MARRIAGE.

(*Ante*, page 59.)

State of New York, County of , Vilage of M:
1. Full name of groom, . 2. Place of residence, . 3. Age next birthday, years, . 4. 5. Occupation, . 6. Place of birth, . 7. Father's name, . 8. Mother's maiden name, (single, widowed, divorced). 9. Previous condition, . 10. Full name of bride, ; maiden name, if a widow, . 11. Place of residence, . 12. Age next birthday, years, . 13. . 14. Place of birth, . 15. Father's name, . 16. Mother's maiden name, (single, widowed, divorced). 17. Previous condition.

N. B.—At Nos. 4 and 13: If of other than the white race, specify it. The signatures below, of bride and groom, should be written out in full for the "given" and family names.

Date at , 189 .

We, the groom and bride named in the above certificate, hereby certify that the information given is correct, to the best of our knowledge and belief.

(Groom.)
(Bride.)

Signed in presence of and .

No. 26.

CERTIFICATE OF DEATH.

(*Ante*, page 60.)

State of New York, County of , Village of .

(Should be certified by the head of the family or other responsible friend.)

1. Full name of deceased (if an infant not named, give parents' names), . 2. Age, years, months, days; sex, ; color (race, if other than the white), . 3. Single, married, widowed (cross out words not required in this line). 4. Occupation, . 5. Birthplace (and State or country, (how long in the United States, if of foreign birth), . 6. Father's name and birthplace, ; (State or country), . 7. Mother's name and birthplace, ; (State or country), . 8. Place of death (if an institution state its name), ; street ; ward (how long resident here), ; (if dying away from home, give home residence below), . 9. Date and hour of death: Died on the day of 189 .

10. Who was the last medical attendant?

Signature and residence of reporter,

(Certified by the physician and according to section 1, chapter 512, Laws of 1880.)

11. I Hereby Certify, That I attended the deceased from , 189 , to , 189 , that I last saw h , 189 , that died on the day of , 189 , about o'clock, M., and that to the best of my knowledge and belief the cause of h death was as hereunder written:

Chief and determining,

Consecutive and contributing,

Duration of disease in years, months, days or hours (the duration of each disease, when given, is reckoned from its commencement until death).

Sanitary observations,

Witness my hand this day of , 189 .

(Signature.) , M. D.

Residence,

No. of burial permit, . Place of burial,

Date of burial, . Name and residence of undertaker,

No. 27.

RETURN OF A STILL-BIRTH.

(*Ante*, page 60.)

State of New York, County of , Village of M .

The death of an infant that has breathed must not be returned as a still-birth; such deaths should be certified in the usual manner, after returning the birth-record.

Name of mother, . Name of father, .
Place of birth, . Residence of mother, .
Period of utero-gestation, . Date of this birth, .
Sex, . Color, . Nativity of mother ; of father, . Cause of dead-birth (if known), . Residence of medical attendant, . Signature of person making this return, . Residence of person making this return, . Date, , 189 .
Undertaker, . Place of burial, .

N. B.— No remains of the dead-born should be interred, or disposed of in any other manner, without a permit therefor having been obtained from this bureau, such permit to be granted upon the presentation of the proper certificate.

No. 28.

TRANSCRIPT FROM REGISTER OF MARRIAGES.

(*Ante*, page 60.)

State of New York, County of , Village of .

Date of marriage, , 18 . Full name of husband, . His residence, . Age, . Race or color, if other than white, . Occupation, .
Husband's birthplace, . His father's name, .
His mother's maiden name, . Previous condition, . Full name of wife; maiden, ; married (if a widow), . Her residence at marriage, .
Age, . Race or color, if other than white, . Wife's birthplace, . Her father's name, . Her mother's maiden name, . Previous condition, .
Name and official position of person solemnizing the marriage, . When registered,

I hereby solemnly attest, that this is a true transcript from the public register of marriages as kept in the bureau of vital statistics of the village of M, N. Y.

(Signed.)

(Official title.)

Dated at , the day of , 18 .

No. 29.

NOTICE OF SPECIAL ELECTION TO RAISE MONEY.

(*Ante*, page 72.)

To the Taxpaying Electors of the Village of M:

Please take notice that on the day of , 1894, a special election of the village of M will he held at for the purpose of considering the question of raising moneys, which moneys are additional to the amount permitted to be raised by the charter (or general law incorporating) of said village. The amount proposed to be raised at that time is dollars.

Dated, this day of , 1894.

Trustees.

No. 30.

PETITION FOR A FREE PUBLIC LIBRARY.

(*Ante*, page 82.)

To the Board of Trustees of the Village of M:

The undersigned, a majority of the taxable inhabitants of said village of M, as shown by the last preceding assessment-roll thereof hereby petition you that you will establish a free public library in such village as by law provided for.

Your petitioners further desire you to (state the amount proposed to be expended for said library, the place where it is to be held, and all particulars).

Dated, this day of , 1894.

Trustees.

State of New York, County of M, ss:

I hereby approve of the sufficiency of the above petition.

L. M.,
County Judge.

No. 31.

VILLAGE BOND.

(*Ante*, page 70.)

$. State of New York. No. .

Village of M, Sullivan County.

Whereas, A majority of the legal electors of the village of M, in the county of S, N. Y., entitled to vote at a special (or annual) election of said village, legally called by the trustees of said vil-

lage, and held therein on the day of , 1894, after due notice, voted in favor of a resolution submitted to them by the trustees of said village which authorized (state the work to be done), and the raising of the sum of eleven thousand five hundred dollars by tax on said village for the purpose of doing said work, and that the said sum be so raised, each installment aggregating $1,000, except the last, which is $2,500, payable with interest semi-annually, at a rate not exceeding six per centum per annum, the first of which said installments shall become due and payable on the first day of January, 1895.

Now, therefore, for and in consideration of the premises of the sum of five hundred dollars borrowed, had and received of said village of M acknowledges itself to be indebted, and it hereby binds itself to pay to the said , or bearer, at the Chemical National Bank, of New York city, the sum of five hundred dollars on the first day of January, one thousand hundred and , with interest, at the rate of six per centum, per annum, payable on the first day of January, 1895, and thereafter on the first day of July and the first day of January, until fully paid, upon the surrender to said bank of the interest coupons hereto annexed, at the maturity thereof respectively.

This bond or obligation is one of a series of (twenty-three) all bearing even date herewith, and each for a like amount, numbered consecutively from Number 1 to 23, both inclusive; the whole of said bonds being intended to secure the payment of the sum of eleven thousand five hundred dollars and interest, so determined to be raised in ten installments as aforesaid, the first installment of which will become due January 1, 1895, and one installment annually thereafter, and interest payable January 1, 1895, and semi-annually thereafter on all unpaid; the bonds first becoming due bearing the lowest numbers, and so on to those last becoming due.

In witness whereof, the trustees of said village of M have caused these presents to be executed by the president and treasurer of the said village of M, this 31st day of May, 1894.

A. B.,
President of the Village of M.

C. D.,
Treasurer of the Village of M.

COUPON.

$15. Village of M, County of S, N. Y. No. 19.

Pay to the bearer January 1, 1904, at the Chemical National Bank, New York city, N. Y., fifteen dollars, being interest due that day on bond number , issued by virtue of authority

conferred by resolution of a majority of the legal electors of said village.

President of the Village of M.

Treasurer of the Village of M.

No. 32.

MONEY WARRANT.

(*Ante*, page 84.)

To the treasurer of the village of M :

In pursuance of an order of the board of trustees of the village of M, made under authority of a resolution of said board, passed the day of , 1894, you will please pay to the sum of dollars, and charge the same to the account of (street improvement, or as it may be), and hold this as a warrant for such expenditure by you.

Dated,

A, B.,

President (or presiding officer) of the Board of Trustees of the Village of M.

C. D.,

Clerk.

No. 33.

NOTICE OF RECEIVING PAYMENT OF TAXES.*

(*Ante*, page 87.)

To the Taxpayers of the village of M:

Take notice that I will, on the 3d, 10th and 14th days of June, 1894, attend at the store of James Bunn, in said village of M, for the purpose of receiving taxes, and any person or corporation failing to pay said taxes with one per cent, fees of collctor, on or before June 15, 1894, will be compelled to pay five per cent for said fees as provided by law.

Dated, M, June 1, 1894.

T. B.,

Collector.

---

*This notice must be posted in five public places in the village twelve days before the last one of the three days specified in the notice.

No. 34.

PETITION FOR STREET IMPROVEMENTS.

(*Ante*, page 94.)

To the Trustees of the Village of M:

The undersigned, ten freeholders of the village of M, residing in said village, hereby respectfully petition that the following alteration be made in street (describe it). The land to be taken by such alteration is the following (describe it); the owners of said land are the following (name them), (except the following piece, the owners of which are unknown).

Signatures of at least ten freeholders and residents.

No. 35.

NOTICE OF STREET IMPROVEMENT.

(*Ante*, page 94.)

To Whom it May Concern:

Please take notice that the trustees of the village of M will meet at the house of James Brown, on the 15th day of May, 1894, at 7 P. M., to hear any objections that may be made to the taking of the following described property, which will be affected by the alterations of the street, as described in the petition of the freeholders filed with the clerk of the village on the day of , 1894. (Describe the property to be taken.)

Dated May 8, 1894.

Signed by trustees.

No. 36.

NOTICE TO OWNERS OF LANDS TAKEN FOR STREET ALTERATION.

(*Ante*, page 95.)

To (the owners of land to be taken):

Take notice, that a meeting of the board of trustees of the village of M will be held at on the day of , 1894, for the purpose of selecting a jury from the annexed list of freeholders, to determine and award the damages, if any, sustained by you or any of you, in consequence of the (alteration of State street).

(Annex a list of twelve freeholders.)

Signed by Trustees.

Date (more than three days prior to meeting).

No. 37.

NOTICE OF MEETING OF JURY.

(*Ante*, page 95.)

To (the owners of land to be taken):

Take notice, that a meeting of the jury drawn on the day of , 1894, for the purpose of determining and awarding the damages, if any, sustained by you, in consequence of the (alteration of State street, etc.) will be held at on the day of , 1894, when said premises will be examined and testimony as to such damages taken by the following jury (give the names of the six jurymen drawn), and an award made regarding the value.

Date,

Signed by Trustees.

No. 38.

INCORPORATION OF WATER-WORKS CORPORATION.

(*Ante*, page 122.)

To the Secretary of the State of New York:

This is to certify that (naming seven or more persons) desire to become a corporation for the purpose of supplying water to the village of M, and the inhabitants thereof in the State of New York. The name of the corporation is to be . The amount of its capital stock shall be $. The number of shares into which said capital stock is to be divided is The location of its principal office is . The number of directors is (not less than seven). The names of the places of residence of the directors for the first year are (state them). The names of the cities, towns and villages which it proposes to supply with water are as follows (state them): The permit of the authorities of such cities, towns and villages required by law in such cases has been granted, and said permit is hereto attached. The post-office address of each subscriber and the number of shares he agrees to take in such corporation are as follows (state in full): The aggregate of stock subscribed for is $ (at least one-tenth of the capital stock), ten per cent of which has been paid to the directors.

Dated,

Signed by seven or more persons.

No. 39.

PERMIT BY TRUSTEES FOR FORMATION OF WATER-WORKS CORPORATION AND AFFIDAVIT OF DIRECTORS.

(*Ante*, page 122.)

To whom it may concern:

(Naming the incorporators) are hereby authorized to form a corporation for the purpose of supplying the village of M with water.

Signed by a majority of the Trustees.

State of New York, County of S, ss.:

A., B. and C., three of the directors of the M water-works company, being duly sworn each severally say that the amount of capital stock required by law has been subscribed and paid in cash.

Sworn to before me this day of , 1894.

Signed by A., B. and C.

L. M., Justice of the Peace.

No. 40.

INCORPORATION OF GAS COMPANY.

(*Ante*, page 133.)

This is to certify that A. B.; C. D. and E. F., of , N. Y., are desirous of forming a corporation for manufacturing and supplying gas (or electricity) for lighting the streets and public and private buildings of the village of M, in the State of New York (and for producing heat and power in said village). That the name of said corporation is to be . Its capital stock $, divided into shares of $ each.

The term of its existence (not to exceed fifty years). The number of its directors is (not less than thirteen).

The names and places of residence of the directors for the first year are , and the operations of said corporation are to be carried on in , in the county of , and State of New York.

A. B.
C. D.
E. F.

No. 41.

NOTICE OF LIEN FOR WORK AND MATERIALS UNDER MUNICIPAL CONTRACT.

(*Ante*, page 150.)

To the President and Trustees of the Village of M:

Take notice that I have and claim a lien upon the moneys in control of said village of M due or to grow due under the contract (made with Peter Jones to build a bridge or whatever it may be) and that thirty days have not elapsed since the work under said contract has been completed or said work accepted by said village.

I claim that $ is still due (or will be due on the day of , 1894), to me (from the contractor or as it may be), after deducting all just credits and offsets.

That the names of the person or persons, firms or corporations by whom I was employed (or to whom materials were furnished) were as follows (state them in full). That the terms, time given and conditions of the contract were as follows (state fully). That the said work was done by me (or materials furnished) to said contractor as set forth in the accompanying bill of items which is made a part of this notice. And were actually performed or used in the execution or completion of said contract with said village.

A. B.

State of New York, County of S, ss.:

A. B. being duly sworn says that he is the claimant named in the above notice of lien, that the work therein referred to was done and the materials furnished to said contractor and were actually performed or used in the execution or completion of said contract with said village and that all the statements contained in the above notice of lien are true.

Sworn to, etc.:

A. B.

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